

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, .....BENCH

OA/TA/RA/CP/MA/PT .....399/90 of 20.....

Kom. Aparna Gaur .....Applicant(S)

Versus

U.O.9. ....Respondent(S)

## INDEX SHEET

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Central Administrative  
Tribunal Bench, Lucknow  
Date of filing 12/12/90  
Date of receipt 12/12/90  
Deputy Registrar(U)  
S/W  
10/12

Registration No. 399 of 1988 (C)

APPLICANT(S) Km. Aparna Chaur

RESPONDENT(S) Union of India & Ors

Particulars to be examined      Endorsement to result of examination

- |     |   |     |
|-----|---|-----|
| 1.  | Is the appeal competent ?   | Yes |
| 2.  | a) Is the application in the prescribed form ?  | Yes |
|     | b) Is the application in paper book form ?  | Yes |
|     | c) Have six complete sets of the application been filed ?   | Yes |
| 3.  | a) Is the appeal in time ?  | Yes |
|     | b) If not, by how many days it is beyond time?  | No  |
|     | c) Has sufficient case for not making the application in time, been filed?  | No  |
| 4.  | Has the document of authorisation/ Vakalatnama been filed ?   | Yes |
| 5.  | Is the application accompanied by B.D./Postal Order for Rs.50/-   | Yes |
| 6.  | Has the certified copy/copies of the order(s) against which the application is made been filed?                                 | Yes |
| 7.  | a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?                 | Yes |
|     | b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?                   | Yes |
|     | c) Are the documents referred to in (a) above neatly typed in double space ?  | Yes |
| 8.  | Has the index of documents been filed and paging done properly ?  | Yes |
| 9.  | Have the chronological details of representation made and the outcome of such representation been indicated in the application? | Yes |
| 10. | Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?                         | No  |

Particulars to be Examined

Endorsement to result of examination

1. Are the application/duplicate copy/open copies signed?
2. Are three copies of the application with annexures filed?
  - a) Identical with the Original?
  - b) Defective?
  - c) Lacking in Annexures
  - d) No. of pages Nos. \_\_\_\_\_?
3. Are the file size envelopes stating full addresses of the respondents been filed?
4. Are the given address the registered address?
5. Do the names of the parties stated in the copies tally with those indicated in the application?
6. Are the translations certified to be true or supported by an affidavit affirming that they are true?
7. Are the facts of the case mentioned in item no. 6 of the application?
  - a) Concise?
  - b) Clear distinct heads?
  - c) Numbered consecutively?
  - d) Typed in double space on one side of the paper?
8. Are the particulars for interim order prayed for indicated with reasons?
9. Have all the remedies have been exhausted.

yes

yes

yes

N.A.

yes

yes

N.A.

Item No 4

yes

yes

No

yes

History

10.12.90

D.R.

Put up before the Hon. Bench,

on 14/12/90 for orders

10.12.90

2  
yes  
10/12

(A3)

374/80 (1)

14.12.90

Hon. Mr. Justice K. Nath. VC  
Hon. Mr. K. obayya AM

On the request of Counsel  
for applicant case is adjourned  
to 18.1.91 for admission.

Q- AM. Q VC

18.1.91

No sitting adj. to 12.2.91  
Q

12.2.91

No sitting Adj. to 4.3.91.

Q

ORDER SHEET  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD/C.B. LUCKNOW

OF 19

Vs.

Sl.No.	Date	Office Report	Orders
	04/3/91		<p>Hon'ble Mr. Justice U.C. Srivastava, V.C.</p> <p>Hon'ble Mr. A.B. Gorthi, A.M.</p> <p>Heard the learned counsel for the applicant.</p> <p>Admit.</p> <p>Issue notice to respondents to file a counter affidavit within four weeks to which the applicant may file rejoinder within two weeks thereafter. List before the D.R.(J) on 22/4/91 for final hearing if possible.</p> <p>As regards interim prayer, the same cannot be granted at this stage and rejected.</p> <p>A.M. V.C.</p>
22/4/91	11/3/91	<p><i>or</i></p> <p><i>noted &amp; passed</i></p> <p><i>11/3/91</i></p>	<p>22/4/91</p>
112		<p>Respondents</p> <p>La. Counsel</p> <p>in presence of</p> <p>filed his power</p> <p>at 25/4/91</p> <p>212y Counsel</p>	

16.3.92.

Hon'ble Mr. Justice U.C.Srivastava- V.C.

Sri B.K.Shukla learned counsel for the respondent states that he has not been received the copy of the application. Let the same be given within three days. He may file the document in reply within three weeks from the date of issuing of the copy of this application. Counsel for the applicant made a request to put up this case with ~~XXXXXX~~ C.A. no. 399/90 as the facts are same. Let both the cases ~~may~~ be fixed together on 20.5.92 for hearing.

(DPS)

  
V.C.

or  
RA filed  
29.4.92  
S.D.17  
L

20.5.92

Cx not ready adj n  
9.5.92  
BSC

(15)  
(Rf)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

(1) O.A. No. 253/90

Pyare Lal Gaur and another

Applicants.

versus

Union of India & others

Respondents.

(2) O.A.No.399/90(L)

M.Aparna Gaur

Applicant.

versus

Union of India & others

Respondents.

Hon.Mr. Justice U.C.Srivastava, V.C.

Hon. Mr. A.B.Gorthi, Adm.Member.

(Hon.Mr.Justice U.C.Srivastava,V.C.)

As the above two applications have been filed together and have common questions of law are involved, the same are being disposed of with a common judgment. Shri Pyare Lal Gaur in view of the technical defect in the case of daughter of the applicant filed a separate application, may be separate relief alongwith one relief which has been claimed by earlier applicant. The applicant Shri Pyare Lal Gaur who was appointed in the year 1950 and his date of superannuation was 31.7.87 and at the relevant point he was, while on duty, met with an accident on 1.11.86 as some miscreants caused injury on the head of the applicant by throwing stone. He was treated in the Railway hospital, but injury caused adverse affect on brain and nerves and he was given medical certificate.

2. He was medically decategorised from A-2 to C-2 according to the applicant it was open for him either to accept alternative employment equal in post or to accept retirement and there was no possibility of suitable alternative employment and that is why he chose to accept the retirement and his application dated 15.5.87 was not acted upon and the applicant was retired on 31.7.87. From the file <sup>it</sup> appears that 10 days prior to his retirement the applicant was called to appear before the Standing Committee for alternative employment. If the applicant would have appeared before the committee and the committee taken a decision the applicant <sup>would</sup> ~~could not~~ have been retired <sup>by then.</sup> The so called notice recalling the applicant for appearing before the Standing Committee <sup>is</sup> ~~but~~ nothing but a <sup>sham</sup> ~~shell~~ offer which was <sup>meant to be</sup> ~~sent~~ never materialised. The applicant also accepted the retirement before that date as due intimation was given and such type of offer was not to be given and the applicant's decision was already conveyed. The applicant applied for compassionate appointment of his daughter which was not granted and that is why he approached the Tribunal with the prayer that he should be deemed to have retired on 15.5.87 on account of medical decategorisation and incapacitation in accident on duty and payment of arrears of pension with effect from 15.5.87 to 31.7.87 may be paid and prayer regarding compassionate appointment of his daughter be granted (though the application has been filed

(18)

↑

separately. The applicant finding that he is unable to work after head injury <sup>which</sup> ~~which is~~ to retire from service only two months before attaining the age of superannuation stating that in accordance with rules compassionate appointment may be given to his daughter and the Railway Administration, when he was at the verge of retirement asking to appear before Standing Committee but no alternative appointment was not given appointment. One must must appear before the committee was a condition precedent. Such public bodies are not supposed to give shell offers and offer must have been given when he was not allowed to retire. There was no sence in giving offer whatsoever. There was rather no offer and no offer should have been given to him. The question arises as to whether the compassionate appointment could be given to the applicant's daughter or not. The decision of the vide circular dt. 7.4.83 Railway Board in this behalf, placed by the respondents on record, reads as under:

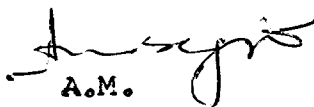
"When Railway employees become crippled while in service or develop certain ailments like heart disease, cancer etc or medically decategorised for the job, they are holding and no alternaative job of the same emoluments can be offered to them"

According to the applicant, as he was medically decategorised and no alternative job of the same emoluments could have been offered to him. The fact which

was mentioned in application when he sought retirement the Railway Administration was obliged to give ~~him~~ job to the daughter of the applicant. On behalf of the respondents it has been contended that the compassionate <sup>appointment</sup> is given to the persons who become crippled while in service or develop certain ailments like heart disease and cancer etc. and on the discretion of the authority concerned. He was asked to appear before the standing committee which he did not attend. The respondents should have considered the prayer of the applicant for compassionate appointment. So far as salary for three months is concerned we find that this period was treated <sup>and</sup> as leave/inaccordance with rules the applicant is not entitled to any salary.

In view of what has been stated above the Application No. 253/90 'Pyarey Lal Gaur vs. Union of India' is dismissed and the respondents are directed to trace the possibility of ~~case of~~ appointment of <sup>the</sup> daughter of the applicant.

With the above directions both the applications are disposed of. No order as to costs.

  
A.M.

  
V.C.

Shakeel/

Lucknow: Dated: 26.5.92.

172

## Act 1985.

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vā rsiṣ

.. Respondent

.. Respondent

**I N D E X**

<u>SN</u>	<u>Description of document relief upon.</u>	<u>Pages</u>
	<u>Compilation No. 1</u>	
1.	Application.	1 - 9
2.	Annexure A-1. Impugned letter dated 29-11-1988.	10 - 0
3.	Application u/S 5 of Limitation Act for condoning delay in filing Original Application.	11 - 0
4.	Affidavit in support of application u/S 5 of the Limitation Act.	12 - 14

Compilation No. 2

5.	Annexure A-2 - Inquiry report dated 5-1-1987.	15 - 16
6.	Annexure A-3 - Medical Certificate dated 3-3-1987.	17 - 0
7.	Annexure A-4 - Medical Report dated 11-5-1987.	18 - 0
8.	Annexure A-5 - Application dated 15-5-1987.	19 - 0
9.	Annexure A-6 - Application dated 30-7-1987.	20 - 21
10.	Annexure A-7 - Application dated 11-2-1989.	22 - 24
11.	Annexure A-8 - letter dated March 86.	25 - 26
12.	yakalatnama.	27 - 0

Aparna Gaur  
Applicant

Really  
Love you

For Registrar

11  
①

- Among*
1. Km. ~~Arpna~~ Gaur aged 22 years D/o Sri Pyare Lal Gaur, Guard 'A', N.W. Railway, Lucknow, R/o ~~28~~ 28, Ravindra Palli, Faizabad Road, Lucknow.

--- Applicant

versus

1. Union of India through General Manager (P), North Western Railway, Gorakhpur.
2. Divisional Railway Manager (P), N.W. Railway, Ashok Marg, Lucknow.
3. Pyare Lal Gaur S/o Sri Gur Prasad Gaur R/o 28, Ravindra Palli, Faizabad Road, Lucknow.
4. Km. <sup>Gaur</sup> Archana, aged 20 years D/o Sri Pyare Lal Gaur, 28 Ravindra Palli, Faizabad Road, Lucknow.

--- Respondents

Details of Application.

1. Particulars of orders against which application is made.

(1) Divisional Railway Manager (P), N.W. Railway, Lucknow letter No. 4/1/227/Compassionate/Class III/237 dated 29-11-1988 regarding Appointment on Compassionate Ground - Annexure A-1.

2. Jurisdiction of Tribunal.

The applicant declares that the subject matter of the orders against which she wants redressal is within the jurisdiction of Tribunal.

3. Limitation.

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act 1985 on consideration of application for condoning the delay U/S 5 of The Limitation Act.

Contd. . . . (2)

Aparna Gaur

ADP  
10/12/90 (2)  
Se  
10/12/90

1. Facts of the case.

(i) That the applicant is a daughter of Respondent No. 3 who was appointed on railway on 8th December 1950. His date of superannuation under 58 years age fell on 31st July 1987. At the time of his retirement, the father of the applicant was working on the post of Guard 'A' with head Quarter at Lucknow Jn. Station over N.F. Railway. The Respondent No. 4 is her own younger sister of the applicant.

(ii) That the Railway servants are medically classified in seven Medical Categories viz. A-1, A-2, A-3, B-1, B-2, C-1 & C-2. The Category of A-1 is highest and C-2 is of lowest. The middle ones are lower one after another. The father of the applicant was in A-2 Medical Category. In this Category the Railway servants on attaining age of 45 years are medically examined once in each year regularly. Special Medical Examinations are conducted at any time when physical disability occur in the Railway servants.

Filed today  
10/12/90

(iii) That a statutory provision exists for appointments of son/daughter/wife of Railway servants who retire from Railway service before attaining the age of superannuation at 58 years of age on account of physical disabilities. Such appointments are called "Appointment on Compassionate Ground." Annexure A-8 is true copy of letter dated March 86 regulating the said appointments

Contd. . . . (3)

Aparna Gaur

(iv) That the father of the applicant met an accident on duty on 1-11-1986, while he was working as Guard of 210 pm Passenger carrying train between Kanpur - Anwarganj and Lucknow stations. Some miscreants, by throwing stones, caused injuries on the head of the father of the applicant at Varanasi Station which made him unconscious. The F.I.R. was lodged in G.R.P./Lucknow where a Crime No. 828/86 was registered for the occurrence and An accident enquiry was conducted by Traffic Inspector, N.E. Railway, Badshahnagar.

(v) That the Traffic Inspector, N.E. Railway, Badshahnagar submitted his report of accident enquiry on 5-1-87 to D.R.M.(Safety)/LJN. Annexure A-2 is true copy of the said report.

(vi) That on the memo of Station Suptd., N.E. Railway Lucknow on 1-11-1986, the injuries of the father of the applicant was treated in the Railway Hospital as "Hurt on Duty". He underwent treatment in Railway Hospital from 1-11-86 to 2-3-1987 and a fit certificate was issued on 3-3-1987. Annexure A-3 is true copy of fit certificate.

(vii) That although the father of the applicant was granted fit medical certificate contained in Annexure A-3, he was physically disabled to perform the duty of Guard 'A'. So he was sent for Special Medical Examination on 11-3-87. After undergoing various medical test and observation, the father of the applicant was medically decategorised from A-2 to C-2 medical category on 11-5-1987. Annexure A-4 is true copy of medical decategorisation.

Contd. . . . (4)

Aparna Gaur

(viii) That the father of the applicant had no leave at his credit and did not expect suitable alternative job in Medical Category C-2. So he sought for Invalid retirement on 15-5-1987. Annexure A-5 is true copy of the said request.

(ix) That no formal order was passed for his Invalid Retirement from 15-5-1987 and he was retired on 31st July 1987 at his age of superannation. He was given no work and no pay during the period from 15-5-87 to 31-7-1987. *He was offered one alternative employment on equal pay after his medical decategorisation.*

(x) That on account of medical decategorisation and Invalid Retirement of the father of the applicant on 15-5-87, was given no suitable employment in Medical category C-2, and no pay to him during the period from 15-5-87 to 31-7-87. He was entitled for retirement benefits from 15-5-87 and appointment of his son/daughter/wife on compassionate ground under the rules.

(xi) That the applicant has no brother and his mother was sick and died. Considering the liabilities of his old age care and his other social responsibility of his younger daughter, the Respondant No. 1, the father of the applicant sponsored the applicant for her appointment on compassionate ground on 30-7-1987 to the Divisional Railway Manager, W.F. Railway, Lucknow. But no consideration was given to his request. Annexure A-6 is true copy of the aforesaid request.

(xii) That when no consideration was made on the

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request of the father of the applicant contained in Annexure A-6, the applicant herself moved on 13-10-1987 to the General Manager, W.F.Rly. Gorakhpur for her appointment on/ compassionate ground. In reply the applicant received the impugned letter dated 29-11-1988 contained in Annexure A-1 stating therein that "the appointment of the applicant on compassionate grounds is not feasible." The said letter does not disclose the reason for non-feasibility of the appointment of the applicant on compassionate grounds.

(xiii) That the reason for denial of appointment of the applicant on compassionate ground is not disclosed. But the known reasons for the same is non-issue of formal letter of Invalid retirement of the father of the applicant on 15-5-1987 for which the applicant or his father is not in any way responsible. They should not be allowed to suffer on this account.

(xiv) That the applicant herself made an appeal on 11-2-1989 before the Railway Minister, New Delhi for her appointment on compassionate ground. But no consideration on aforesaid appeal has been made as yet. Annexure A-7 is true copy of aforesaid appeal.

(xv) That on the basis of her following educational qualification, the applicant is entitled for her appointment on Class III post and on obtaining degree of Graduation she is entitled for her appointment against Graduate Quota in Class III posts.

Contd. . . . . (6)

Aparna Gaur

- (i) Passed High School Examination in Ist. Division in the year 1985.
- (ii) Passed Intermediate Examination in IInd Division in the year 1987.
- (iii) Passed B. A. Pt. III Final Examination in third Division in the year 1990.
- (iv) Date of Birth - 26th December 1968.

(xvi) That the father of the applicant filed one original application No. 253 of 90(I) in re Pyare Lal Gaur vs Union of India on 8-8-1990 for declaration of his Invalid retirement on 15-5-1987 and appointment of the applicant against Class III post. The applicant joined the aforesaid application as Applicant No. 2. The said application came for admission on 9-11-1990. The application ~~admission~~ was admitted with direction that separate application be filed for appointment of the applicant on compassionate ground.

(xvii) That on summing up the facts mentioned in aforesaid sub paras of Para 4 of the application, the applicant is entitled for her appointment on compassionate ground against Class III post. Further on obtaining degree of Graduation her appointment may be considered on higher grades in Group (C) against Graduate Quota.

5. Ground of Relief with legal provision.

That on the basis of facts mentioned in Para 4 of the application, the applicant is entitled for the Relief on the followings amongst other grounds:-

Aparna Gaur

Contd. . . . (7)

- (a) because the statutory provision for appointment of the applicant on compassionate ground is violated .
- (b) because the impugned order dated 27-11-1988 contained in Annexure A-1 is violative of Articles 14 and 16 of Constitution of India. As such it is unjust, illegal, void and liable to be set aside.

6. Details of remedies exhausted.

The applicant declares that he had availed of all the remedies available to him under the relevant service rules etc.

- (1) Appeal dated 11-2-1989 to the Railway Minister New Delhi duplicating a copy to the General Manager, N.E. Railway, Gorakhpur.  
- Annexure A-7.

7. Matter not previously filed or pending with any court.

The applicant further declares that he had not previously filed any application, Writ Petition or suit regarding the matter in respect of this application has been made before any court or any other Authority or any other bench of the Tribunal nor any such application, Writ Petition or suit is pending before any of them.

8. Relief(s) sought for -

In view of the facts mentioned in Para 6 above the applicant prays for the following relief(s) for :-

Aparna Gaur

Contd. . . . . (8)

--:8:--

MS

- (a) Declaring that the impugned order dated 29-11-1988 contained in Annexure A-1 is unjust, illegal, void and may be set aside and that the applicant is entitled for the appointment on Compassionate Ground in Group 'C' post, and against Graduate Quota.
  - (b) Consequent on grant of relief, the respondent may be directed to make appointment of the applicant against Group <sup>(c)</sup> post on compassionate ground and against Graduate Quota.
  - (c) Any other relief deem just and proper in the circumstances of the case.
  - (d) Cost of the application.
9. Interim order if any prayed for - Nothing.
10. Not applicable.
11. Particulars of Postal Order filed in respect of application fee :-
- (a) No. of Indian Postal Order. 8 02 415994
  - (b) Date of issue of Postal Order. 10 12 1990
  - (c) Name of Issuing ~~Postal Order~~ Post Office. High Court  
Lucknow

Contd. . . . . (9)

Aparna Gaur

12.

List of enclosures.

As per given details in the Index of  
the application.

Dated: 7-12-1990

Aparna Gaur  
Applicant

*Truly as  
A. Gaur*

Verification

*Aparna*

I Km. *Aparna* Gaur D/o Sri Pyare Lal  
Gaur retired Guard, N.F. Railway, Lucknow R/o  
28, Ravindra Palli, Faizabad Road, Lucknow do  
hereby verify that the contents of paras 1 to 5  
are true to my personal knowledge and para 6 to  
12 to be true on legal advice and that I have  
not concealed any material facts.

Lucknow

Dated: 7.12.1990

Aparna Gaur  
Applicant

जहाँ पर दोनों sides लिखें  
Use both sides if required.

पूर्वोत्तर रेलवे  
N. E. RAILWAY

Regd.

संख्या (No.) ई/१/२३७/अनुकम्पा/लखनऊ दिनांक (Dated) २९-११-८८  
 प्रेषक (From) मंडल रेल प्रबंधक (का) लखनऊ सेवा में To श्री कृष्ण गौरी  
 विषय (Sub:) अनुकम्पा के आधार पर श्री स्व. पी. एल. गौर  
 संदर्भ (Ref) नियुक्ति हेतु प्रार्थनापत्र रेलवे क्वारर नं. ६८/ए  
 रेशबाग, लखनऊ

संदर्भ: म.प्र. (का) गोरखपुर का  
 पत्रांक ई/२३९/२।२। लखनऊ  
 लखनऊ पांच दि. २२-११-८८

उपरोक्त विषय में सूचित किया जाता  
 है कि उपरोक्त संदर्भित पत्र के अनुसार  
 आपके अनुकम्पा के आधार पर नियुक्ति  
 विचार कर पाना संभव नहीं है।

Recd on 24/11/89

होते मंडल रेल प्रबंधक  
 (का) लखनऊ

Aparna Gaur

True Copy  
 att. 13/11/89  
 13/11/89  
 13/11/89

M. ☺

of 1990 (4,

In

Original Application No. 399 of 1990. (L,

*Sarna.*

Km. Arpana Gaur .. Applicant

versus

Union of India and others. .. Respondent

Application n/S 5 of the Limitation Act for condoning  
delay in filing Original Application.

The applicant most humbly sheweth as under :-

1. That for the reasons mentioned in the accompanying affidavit it is reasonable and bonafide to condone the delay in filing the Original Application. The delay is unintentional and beyond the control of the applicant.

P R A Y E R

Wherefore it is prayed that the Hon'ble Tribunal may be pleased to condone the delay in filing the Original Application U/S 5 of the Limitation Act to secure the end of justice.

Enc 1: One affidavit.

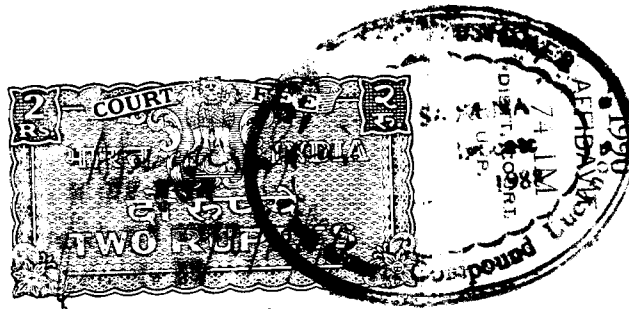
Dated: 7 -12-1990

Aparna Gaur  
Applicant

Fullington  
H. H. H.

122 (12)

In the Central Administrative Tribunal, Lucknow.



Affidavit

in support of application U/S 5 of the Limitation Act

In

Original Application No.

of 1990.

*Aparna*  
1. Km. ~~Aparna Gaur & others~~ .. .. Applicant

versus

Union of India & others. .. .. Respondent

*Aparna*  
I Km. ~~Aparna~~ Gaur aged 22 years D/o Sri  
Pyare Lal Gaur R/o 28, Ravindra Palli, Raiza Bad Road,  
P.S. Gazipur, Lucknow, do hereby solemnly affirm and  
state on oath as under :-

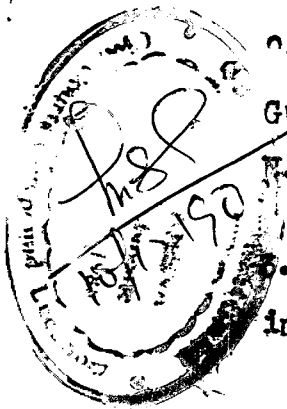
1. That the deponent is applicant, so he is  
conversant with the facts deposed below.

2. That the deponent is legally entitled to get  
her appointment in the Railway on "Compassionate Ground"  
against Class III post on account of Invalid retirement  
of her father named Sri Pyare Lal Gaur from the post of  
Guard 'A' with Head Quarter at Lucknow Jn. Station on  
F.R. Railway.

That the claim of deponent was denied under  
impugned letter dated 29-11-1988 contained in Annexure 'A'

*Aparna Gaur*

Contd. . . (2)



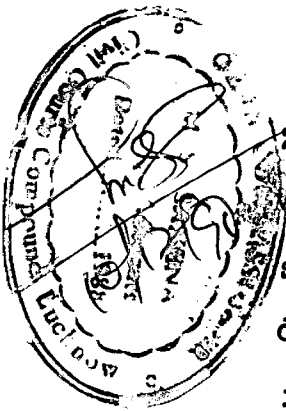
which was received by the deponent on 21-1-1989.

4. That the deponent made an appeal ~~write~~ against the impugned letter dated 29-11-1988 contained in Annexure A-1 before the Railway Minister of Union of India on 11-2-1989 on which decision has not been communicated to the deponent as yet.

5. That the claim of filing application before the Hon'ble Tribunal accrued to the deponent on or before 10-8-1990 U/S 19 of the Administrative Tribunal Act 1985.

6. That the father of the deponent filed on Original Application No. 253 of 90(I) Pyare Lal Gaur vs. Union of India on 8-8-1990 in which the deponent joined as Applicant No. 2 within the prescribed period of limitation for twin relief of (i) declaration of his date of retirement on 15-5-1987 and (ii) Appointment of the deponent on Compassionate Ground.

7. That the aforesaid Original Application No. 253 of 90(I) was listed for admission on 9-11-1990 which was admitted by the Tribunal with direction that a separate application be filed for appointment of the deponent on Compassionate Ground. Thus delay occurred in filing the Original Application within Limitation Period.



Aparna Gaur

Contd. . . . . (3)

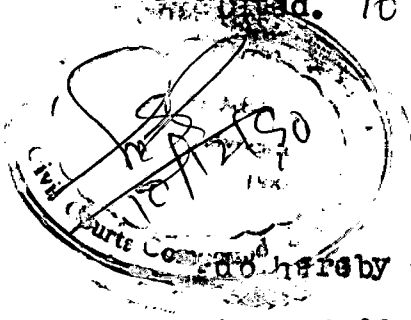
124 (14)

8. That the delay is unintentional and beyond the control of the deponent. The delay is reasonable and bonafide for condonation U/S 5 of the Limitation Act.

Lucknow.

Aparna Gaur  
Deponent

Dated. 10 -12-1990



Verification

I Km. Aparna Gaur, the deponent abovenamed

do hereby verify that the contents of para 1 to 8 of the affidavit are true to my personal knowledge and no material fact has been suppressed.

Verified and signed on this 10<sup>th</sup> day of Dec. 10 of 1990 in the court compound at Lucknow.

Aparna Gaur  
Deponent

I Mond Ilyas Advocate, 5, R.A. Bazar Cantt.  
Lucknow identify the deponent Km. Aparna Gaur

Who signed before me.

74/10/90  
10/12/90  
Km. Aparna  
Mond Ilyas  
Advocate  
no fee charge

Mond Ilyas  
(Mond. Ilyas Advocate)

10/12/90  
Mond Ilyas  
Advocate

COMPILATION- NO 2

T4/BNZ

Annexure 42  
To, DRH US & E  
LJN  
(425)

Sub: Shri P. L. Gaur seriously injured  
while working 210 DN on 1.11.86.

Ref: Your No. T/537/P/31/16 dated 6.11.86.

5. The enquiry report is submitted as under:-

On 1.11.86 210 DN was worked by engine No. 6557 YDM4 with driver Shri Babulal and guard Shri P. L. Gaur. The train reached HRN at 19.36 hrs about 12 Hrs late. It was Deepawali day and passengers were in hurry to reach their destinations. But train suffered heavy detention for about 3 hours because the block section between HRN - AHS was blocked due to failure of engine of 207 up. Engine of 210 DN was sent to clear the block section. Then train was again detained to cross 513 up. The passengers became very much annoyed as they could not celebrate the festival.

210 DN started from HRN at 22.40 hrs and the guard Shri P. L. Gaur also exchanged alight signal with driver and while standing in brake van he was hit with a stone in moving train on his head. It started profusely bleeding and he fell down unconscious inside his brake van. It happened so suddenly that he lost his consciousness and he does not remember how he reached LJN station. When the train reached Pipri sand, the porter on duty Shri Phool Chandel found him unconscious with his head bleeding heavily. He immediately informed ASM on duty Shri Ashkar Ahmad, and driver of the train. They both attended at once and gave him first aid. The driver instructed his fireman Shri P. S. Pandey to remain with the guard till train reached Lucknow. The driver also gave a memo to AHS for arranging medical aid at Lucknow to inform all concerned. Car.

Aparna Gaur

II

including Lucknow DHO/ASH attended with  
and he was admitted to N.Ky.  
for further treatment. He was discharged  
few days back he is still under  
at his home under the treatment of  
DHO/ASH

The statements of driver, fireman, ASH  
JOF and the guard Shri P. B. Gaur are  
attached for your kind perusal. Shri P. B. Gaur  
has himself stated that he was hit on his  
head in a moving train after he exchanged slight  
words with the driver and was now beaten by  
some passengers as alleged. This happened as passengers  
were very much annoyed due to unavoidable  
delay of train and they had no  
communication with the guard particularly. The  
statement of guard has been corroborated by  
the driver Shri Babu Lal also.

Shri P. B. Gaur guard was seriously injured  
on duty while working 210 DN between HRN-ANS  
and was due to his fault.

Submitted for your kind perusal please.

Encl: as above.

~~NOTICE~~  
THBNZ.

5/1/87

Aparna Gaur

For copy  
attached

N. L. RLY.

चिकित्सा विभाग  
MEDICAL DEPARTMENT  
"अनुपस्थिति-प्रमाणपत्र"  
Certificate

7697

क्रम संख्या - 3  
Serial No.

आवेदक के हस्ताक्षर या बान संगठ के निम्नान  
Signature of L. T. L. of Applicant

चिकित्सालय  
HOSPITAL  
प्रोप्यालय  
DISPENSARY

मैं एतद् द्वारा प्रमाणित करता हूँ कि मैंने निम्नलिखित कर्मचारी  
का मनी-मांति परीक्षण कर लिया है :-

नाम

Name

पद

Designation

आस्था प्रथवा विभाग

नियुक्ति का स्थान

Station where employed

इसका हस्ताक्षर ऊपर दिया है और वे..... (तिथि)

वे..... (तिथि) तक बीमार थे और

उपचार के अन्तर्गत थे और..... (तिथि)

वे..... (तिथि) तक वाकटरी अभिवृत्ति के

अनुसार छुट्टी पर रहे हैं। ये अब अपनी द्यूटी करने के योग्य हैं।

Whose signature is given above and who was sick and under

treatment from 01.11.86 (date)

and on leave on medical recommendation from

(date) to (date) 03.03.87

is now fit to attend to his duties.

कार्यालय की मुहर

Office Seal

तिथि

Date

\*यदि लागू नहीं हो तो काट दीजिए

\*Strike out if inapplicable.

टिप्पणी :- इस प्रमाणपत्र को कोई अभिवृत्ति रखनेवाला

को उसके करार की शर्तों या उस पर लागू नियमों

के अन्तर्गत किसी प्रकार की घस्वीकार्य छुट्टी के

बाद का प्रमाण न होगी।

Note.—No recommendation contained in this certificate shall

be evidence of a claim to any leave not admissible

to the Railway servant under the terms of his contract

or of the rules to which he is subject.

UNFU Age-two glasses  
Fice-two

W. E. Railway F. N. V. +2.50 E-M-2 A  
MEDICAL DEPARTMENT

CERTIFICATE-PHYSICAL FITNESS OF EMPLOYEE  
(Certificate to be used when an employee is re-examined during service)

Home/Dispensary... ASH

No. 1245286-69

I do hereby certify that I have examined (name) SRI P. L. GURUR 6.2.29

an employee serving as (designation) Guard (class) A2 in the 086

branch/department, at (place where employed) LSN who presented himself before me for—

\*Periodical re-examination

\*Re-examination prior to promotion to class... as (designation)...

\*Special re-examination

\*Re-examination for reconsideration of previous adverse report,

and whose signature, thumb impression has been appended below in my presence.

I consider him fit for service in class... C2 with glasses, no glasses

RE +2.0 SH +0.5 ey

13.3.87/15/87

Date 13.3.87/15/87

Signature of Rly. Medical Officer

Designation

Black spot on nose

Curvature below knee

Aparna Gaur

Free Copy  
certified by

Free Copy  
certified by

रिपोर्ट में

श्री. ज्ञान गण्डन रेल प्रबंधक (कार्मिक)

प्रदेश रेलवे 5, अशोक मार्ग,  
लावंगऊ

विषय :- रेलवे डाक्टर द्वारा ए-2 से अनफिट स्न  
सी-2 में फिट होने के फलस्वरूप किसी  
अन्य पद पर कार्य करने में आनोवृत्ति

महोदय,

प्रार्थी उपरोक्त संबंध में निम्न निवेदन करना चाहता है,

- 1) प्रार्थी लावंगऊ जं. पर गार्ड 'ए' पद पर कार्य कर रहा था और  
गर्मीय बीमारी के कारण दिनांक 11-5-87 को ए-2 से अनफिट  
करके रेलवे डाक्टर ए. शर्मा द्वारा सी-2 में फिट घोषित  
किया गया है।
- 2) अतः निवेदन में अनफिट एवं फिट प्रमाण पत्र दिये गए हैं।  
लावंगऊ को दे दिए गए। जिसने सभी संबंधित कागजात  
अपने पद सांबा 1/ गार्ड लावंगऊ / 87 दिनांक 12-5-87 को  
मैरेड (का.) लावंगऊ को उचित कार्यवाही के लिए भेज दिया तथा  
मुझे रिपोर्ट करने का निर्देश दिया।
- 3) उक्त पालीधारी को एवं निर्देशों के आधार पर प्रार्थी रिपोर्ट  
दा रहा है तथा अवगत करा रहा है कि प्रार्थी किसी भी पद  
पर कार्य करने हेतु लावंगऊ नहीं है तदनुसार कृपया देता है।

अतः प्रार्थी निवेदन करता है कि उक्त पालीधारी को  
जो पद देते हुए प्रार्थी की पुत्री को अपूर्ण गैर  
पुनर्वास के आधार पर लावंगऊ में नियुक्ति को 11/5/87  
को जाग। को देया होगा।

दिनांक 15/5/87

Apurva Gaur

प्रार्थी

P. L. Gaur

(पता लावंगऊ)  
गार्ड-ए, लावंगऊ जं.  
प्रदेश रेलवे।

The Divisional Railway Manager,  
North Eastern Railway,  
Lucknow.

Sir,

Sub:- Employment to my daughter on compassion;  
the applicant being hurt on duty and  
later on medically decategorised and unable  
to perform any job.

With due respect I beg to state the following facts  
for your kind perusal and solicit favourable consideration  
thereof.

That, while working 210Dn. Ex. CPA to LJN as Guard on  
1.11.86 I was ~~badly~~ hurt on stone throwing from out-side  
while exchanging signal with driver and got severe injury on  
head. I felt unconscious and was lying on the ~~first~~ floor ~~on~~  
of the B/Van. Station Staff of Piparsand came to know the fact  
while taking arrival report and took immediate steps for  
medical aid.

That, on their information, medical authorities-MSS of  
N & N.E with medical team, DRMs of N & N.E; ADRM, Sr. DOS, DSO, AOS (G)  
and AOS (C) all came to attend me, so I have heard later on.  
All possible steps even ifusion of blood was given under  
the special care of all officials present. My life was saved; but  
with several troubles.

That, I was under the treatment of DMO/N.R for 15 days  
there after under DMO/ASH, & from 1.11.86 to 2.3.87 I was  
under the treatment and was asked to take fit although I was  
not feeling sound to perform my duty. DMO/ASH issued me Fit  
certificate on 2.3.87 and according to his advise I worked  
one train 57/58 Ex. LJN to CPA and back on 8.3.87; but I felt  
most trouble and anguishes and puzzle in my head & brain and  
I again approached to DMO/ASH. On his advice I appeared with  
special medical check-up and I was remained under his special  
check-up from 9.3.87 to 11.5.87 and was declared Unfit for  
Category-A/2 and Fit for Category-C/2.

That, consequent upon the facts and according to the  
proceedure I submitted the medical papers etc. through SS/LJN  
who forwarded those papers under his letter No. E/Guard/LJN/87  
dated 12.5.87 to DRM(P)/LJN for necessary action.

That, since then I was asked to be present to the  
Standing Committee for the alternative job although I have  
been telling that I can not perform any job and lastly I  
have also given written refusal for any job on 15.5.87 in  
~~the content~~ of my statement already made. I could not be  
present before the Standing Committee as it could not sit  
at all. More pathetic, all letters addressed to me was sent to  
my home address without mentioning the name of village, when  
I am living in the Railway Quarters No. 68/A, Aishbagh Railway  
colony, since 1968; and although my roll is still maintaining  
by the SS/LJN and all applications were endorsed my office  
address under the care of SS/LJN.

Aparna Gaur

Contd...2...

...2....

That, Sir, with a heavy heart I beg to state that I am to retire from the Railway service on 31.7.87; my wife is a cancer patient just counting her days; I lost all my amount in her treatment. I got two daughters and no sons. Both the daughters are of marriagable age. I am running in a financial constrain and find no hope of future.

That, I request your goodself, you would very kindly give an employment to my daughter, Kumari Aparna Gaur in any group -C on compassion as it is a case of HURT ON DUTY and infirmity was the reason of that only. The bio-data of my daughter is given below for favour of consideration.

Name - Kumari Aparna Gaur.

Educational (1) Passed High School - 1st Division-1985  
Qualification-  
(2) Intermediate Exam- IInd Div. - 1987.

Date of Birth- 26.12.68 Aged- 18 Ys. 7 months.

That, an application from her side and all other testimonials are enclosed for ready reference.

And, for this act of kindness the applicant will remain ever pray.

5 (Five Medical )  
Certificates }  
1 (One) in Same App. with 3 papers  
Dated, Lucknow,

the 30th July, 1987.

Yours faithfully,

P. L. Gaur

( P. L. Gaur )

Guard/A/Lucknow Jn.

By Post and Personally  
to DDM

Aparna Gaur

True Copy  
attested by

सेवा में,

मातृशालीय रेल उप मंत्री  
भारतीय रेलवे, रेल भवन,  
नई दिल्ली ।

विषय:- पूर्ववर्ती मार्ग श्री ज्यारे लास मीड, पूर्वोत्तर रेलवे लकाबू जं० के  
आकस्मिक दुर्घटना के कारण जेपी ए-2 में चिकित्सीय प्रमाण-  
पत्र पर कार्य में अंशम होने के फलस्वरूप मातृशालीय आचार पर  
बिपुलित के संबंध में आवेदन पत्र ।

संदर्भ:- मण्डल रेल प्रबन्धक का का० लकाबू के पत्र संख्या ई/1/227/  
अनुसूचा/ 50 जे०/237 दिनांक 29/11/88। रजिस्ट्रार के विरुद्ध  
प्रतिआवेदन ।

मातृशालीय महोदय-

आप का क्या उपरोक्त के संदर्भ में आकर्षित करते हुये  
बिम्बितकित तथ्यों को आप के समक्ष विचारार्थ प्रस्तुत करना चाहती हूँ।  
साक्षात् ही आप से सही बिम्बित पर विचारोपरांत क्याय की अपेक्षा करती  
हूँ ।

1.1 मेरे पिता श्री ज्यारे लास मीड, पूर्वोत्तर रेलवे में मार्ग के पद  
पर मेडिकल जेपी ए-2 में कार्यरत हों । जिसका कामपुर से गाड़ी लड़ते समय  
दिनांक 1/11/86 के साथ के गये पटरा से पर में घोट लम्बे के कारण  
दुर्घटना हो गयी । उन्हें अथवा अवस्था में रेल चिकित्सालय  
उत्तरी रेलवे लकाबू में उपचार के लिए अंतरिम विज्ञापन में जारी किया गया  
उन्की चिकित्सा 1/11/86 से 2/3/87 तक चलती रही । तत्पश्चात् 3/3/87  
से कार्य करने के लिए चिकित्सक ने उन्हें अनुमति प्रदान की । दिनांक 8/3/87  
को कार्य पर जाने के पश्चात् मेरे पिता ने यह महसूस किया कि वे अपने कार्य  
को सही ढंग से नहीं कर पा रहे हैं क्योंकि उन्हें स्पष्ट विचारों नहीं पड़ते  
हैं तथा उन्हें बहुत आचारात तथा शारीरिक व्यथा की अनुभूति हुई।  
जिसकी सूचना उन्होंने विज्ञापन को दिनांक 9/3/87 को प्रस्तुत कर दिया

1.2 दिनांक 9/3/87 के सूचना को स्वेच्छा अनाधिक लकाबू जं०  
पूर्वोत्तर रेलवे के डी०एम०ओ० ऐश्वर्याम को आवश्यक परीक्षा के लिए तथा  
तथा उपचार हेतु भोज दिया ।

1.3 डी०एम०ओ० पूर्वोत्तर रेलवे ऐश्वर्याम ने मेरे पिता को विशेष  
चिकित्सा परीक्षा में दिनांक 13/3/87 से 11/5/87 तक रखा तत्पश्चात्  
उन्होंने ए-2 के निमित्त अंशम । *unfit* । पाया तथा सी-2 के लिए  
अंशम पाया, जिसके आचार पर मण्डल रेल प्रबन्धक का कार्मिक । पूर्वोत्तर  
रेलवे के दिनांक 28/6/87 तथा 21/7/87 को साक्षात्कार हेतु स्टेपिड

*Aprima Gaur*

कमेटी के समक्ष उपस्थित होने का निर्देश दिया। इस संबंध में मेरे पिता के दिनांक 15/5/87 तथा 21/7/87 को एक आवेदन पत्र प्रस्तुत करके, निवेदन किया था कि वर्तमान पद जिसपर वे कार्यरत हो के समस्त कोई पद विभाग में उपलब्ध नहीं है इसलिए साक्षात्कार हेतु उपस्थित होने आवश्यक करते हैं तथा इसके शारीरिक और मानसिक अवस्था का कारण कार्य का सम्पादन नहीं हो सकता ऐसी स्थिति में उन्होंने निवेदन किया था कि उनकी पुत्री अर्थात् मेरी नियुक्ति मासवीय आधार पर उनके रिश्ते में कर ली जाय।

14। रेल प्रशासन के अग्र पत्र संख्या 3025/डीआरएम।पी।/एलएएम 31/7/87 को मेरे पिता की 58 वर्ष की आयु पूरा होने पर सेवा से निवृत्त-निष्ठ कर दिया परन्तु उनके द्वारा प्रस्तुत आवेदन पत्र दिनांक 15/3/87 व 21/7/87 पर कोई विचार नहीं किया गया और वही प्रस्तुत आवेदन पत्रों का कोई संतोषजनक उत्तर विभाग के दिया तत्पश्चात् मेरे पिता के एक आवेदन पत्र मेरे आवेदन पत्र के साथ दिनांक 31/7/87 को महाप्रबन्धक पूर्वोत्तर रेलवे, गोरखपुर के तत्काल प्रवास के समय उपस्थित होकर किया जिसपर कोई निर्णय व होने के पल्लवस्थ दिनांक 13/10/87 को पुनः एक आवेदन पत्र मेरे पिता के मेरे आवेदन के साथ गोपनीय आनुतिष्ठ महाप्रबन्धक पूर्वोत्तर रेलवे के तत्काल प्रवास के समय हस्तगत किया था।

उपरोक्त के क्रम में मैं मासवीय महोदय का व्याप्त निम्नलिखित विवरणों की तरफ आकर्षित करना चाहूँगी:-

13। दिनांक 19/6/87 मण्डल रेल प्रबन्धक/कार्मिक तत्काल के पत्र सं 11/227/डीआर- 3111/ । तथा दिनांक 14/7/87 के पत्र संख्या का/टी/ 227/डीआर-1111/ । के माध्यम से क्रमशः 28/6/87 तथा 21/7/87 को साक्षात्कार हेतु स्टैण्डिंग कमेटी के समक्ष उपस्थित होने के लिए भोजा भया था वह पत्र मेरे पिता के मुख नाम व अवस्था के पते से भोजा भया था जबकि मेरे पिता रेलवे स्टेशन 68-ए ऐश्वर्य के पते पर रह रहे थे जिससे स्पष्ट है कि कार्य सभी स्तर में सम्पादित नहीं हो रहा था।

14। मेरे तथा मेरे पिता के अग्र-लिखित आवेदन पत्रों पर जो सूचना मुझे पत्र संख्या सं/1/227/प्रबन्धक/ 8090/237 दिनांक 28/11/88 जो 24/1/ 89 को प्राप्त हुआ है, मैं यह स्पष्ट नहीं किया गया है कि किस आधारों पर नियुक्ति के संबंध में विचार कर पाया संभव नहीं है।

15। यह स्पष्ट है कि मेरे पिता का सरकारी कार्य पर 1/11/86 को घर में पत्थार लगने के कारण रुक गया हुआ था और तब से मेरे पिता बराबर

Aparna Gaur

रेलवे धिकित्सक के पास उपचार में बंधे रहे । जिसका उनके शरीर और मन पर दुष्प्रभाव पड़ने के कारण पूरा परिवार टूट सा गया और इसकी यातना मेरी माँ को मिली और उसका स्वभाव पिता के सेवा विभूत होने के तीव्र विषय बन गया ।

### निवेदन:-

उपरोक्त सभी परिस्थितियों एवं तथ्यों को आप के समक्ष किसी दस्तावेज-बैंगन न बना कर अपनी रिपोर्ट को स्पष्ट करना चाहती हूँ और यह भी सूचित करना उचित ही है कि मेरे अलावा मेरे पिता की देखभाल अन्य कोई व्यक्ति नहीं करके वाला है, जो दुर्घटना की तिथि से आमतक अकेला रह चुके हैं और उसका उपचार बढ़ावत चल रहा है। वर्तमान में मेरे माँ के समय में रिपोर्ट स्पष्ट करना उतना ही उचित होगा जिसका मुझे को भीषण बिताया है ।

अतः आप से आग्रह निवेदन करना चाहती कि मेरी सभी विनियमों पर समय पर विचार करने के उपरांत मासिक आधार पर पिता के दुर्घटना के कारण मुझे रेल प्रशासन के अंतर्गत जो मेरे लिए उचित सेवा का विचार हो, पर नियुक्ति के आदेशा निर्गत करने के महति कृपा करें । वर्तमान में मैं बी०ए०वर्ग द्वितीय में विश्वविद्यालय लकाऊ में पढ़ रही हूँ । इस संबंध में अपने पूर्व प्रेषित आवेदन पत्रों, प्रमाण पत्रों, अंशालिकाओं तथा मेरे पिता द्वारा प्रेषित आवेदन पत्रों के साथ संलग्न समस्त दस्तावेजों की फोटोकॉपी संलग्न कर रही हूँ ।

मुझे आशा ही नहीं विचार है कि मेरे प्रार्थना पर आप सहयता पूर्वक विचार करते हुए आवश्यक आदेशा निर्गत कर मेरे परिवार को भाविष्य में आने वाली कठिनाईयों से उबारने की कृपा करेंगे ।

सम्मान,  
दिनांक 11-2-89  
संलग्नक :- उपरोक्त ।

प्रार्थना  
अमरावती  
150 वर्षीय गीड़  
पुत्री श्री प्यारे लाल गीड़  
78 रवीन्द्र पल्ली  
फाबाव रोड, लकाऊ ।

प्रतिनिधि:- महाप्रबन्धक, पूर्वोत्तर रेलवे मुख्यालय भोरगापुर को  
उपरोक्त सभी संलग्नक के साथ आवश्यक आदेशा एवं कार्यवाही हेतु प्रेषित ।

150 वर्षीय गीड़  
पुत्री श्री प्यारे लाल गीड़,  
78 रवीन्द्र पल्ली  
फाबाव रोड - लकाऊ ।

Amra Gaur

Incl. copy  
all the  
documents

11-2-89

N.E. RAILWAY.

No. E/239/0(V)

OFFICE OF THE  
GENERAL MANAGER (P)  
GMP. Dt. March, 1986All Heads of Departments  
All Divl. Railway Managers,  
All Extra Divl. Officers  
All Personal Officers  
N.E. RAILWAY

Sub: Employment on compassionate grounds.

A copy of Mly. Board's letter No.E(NG)II/85/RC-I/46 dt. 28.2.1986 on the above subject is sent herewith (both in English & Hindi) for information, guidance and necessary action.

Please acknowledge receipt.

Sd/-

DA/As above.

for GENERAL MANAGER (P)

-----  
Copy of Mly. Board's letter No.E(NG)II/85/RC-1/46 dt. 28.2.86 addressed to the General Managers, All Indian Mlys and others.

Sub: Employment on compassionate grounds.

In terms of instructions contained in para 1(iv) of Board's letter No.E(NG)III/78/RC-1/1 dated 7.4.83, appointment on compassionate grounds can be offered where a railway employee becomes medically decategorised for the job he is holding and no alternative job with the same emoluments can be offered to him. Again, in Board's letter of the same number dated 3.9.83, instructions were issued that in cases where, on being medically decategorised, a railway employee is offered alternative employment on the same emoluments but the same is not accepted by him and he chooses to retire from service, compassionate appointment of an eligible ward of the employee, ~~compassionate appointment of~~ if so requested by him, can be considered at the discretion of the competent authority, provided that if the employee has less than three years of service before superannuation ~~time~~ (i.e. has passed the age of 55 years) at the time the decision is taken, personal approval of the General Manager has to be obtained before the offer of appointment on compassionate grounds is made.

2. It has been reported to the Board that there are cases where the provisions of the aforesaid letter dated 3.9.83 had been invoked for accepting requests for compassionate appointment, though the circumstances of the case did not warrant or merit exercise of the discretion in favour of the ex-employee. A case has also been brought to notice wherein the personal approval of the General Manager was not taken for employment of a ward of an employee, who had crossed the age of 55 years. In one case the appointment to the ward of an employee was given only one day prior to his date of superannuation and that too by an authority lower than the General Manager.

Aparna Gaur

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( -2- )

3. Board desire that proposals for compassionate appointment should be carefully scrutinised so that the discretionary power vested in the competent authority is exercised judiciously, and appointments are offered only in cases genuinely deserving consideration of the case. Before deciding to offer such appointments, in a case falling within the purview of the aforesaid letter of 3.9.1983, if the competent authority so desires, it may call for and take into account the past record of service of the employee (including his vigilance record). Appointment of wards of employees who are over 55 years old, (in cases covered by the instructions of 3.9.83), should be done only in circumstances considered as special cases and not as a matter of course. Such appointments should be approved personally by the General Manager and not by any authority lower than him, as stipulated in the instructions in question.

Aparna Gaur

True Copy  
sent to  
all  
the

(A37)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench Lucknow

O.A. No. 399 of 1990 (L)

Kn. Aparna Gaur

.....Applicant

Vs.

Union of India & others

....Opposite parties

COUNTER REPLY ON BEHALF OF THE OPPOSITE PARTY NO. 1 & 2

I S.M.N. Islam aged about 34 years S/o Sri S.M.Owais working as Sr. Divl. Personnel Officer in the North Eastern Railway Lucknow, do hereby solemnly affirm and state as under:-

1. That I have been duly authorised by the opposite party no. 1 and 2 to file this instant reply. I have gone through the application and have understood the same well. As such I am conversant with the facts and circumstances deposed to hereinafter.

2. That the contents of para 1 & 2 of the application need no comments.

3. That in reply to para 3 of the application, it is stated that the application of the applicant is barred by time as provided under section 21 of the Administrative Tribunal Act 1935, hence it deserves to be dismissed with cost throughout on this score alone. It is further submitted that the separate application under section 5 of the limitation Act moved by the applicant deserves to be dismissed as the affidavit

containing facts and circumstances, moved in support of the application, does not contain the proper explanation and the cause as to why the application could not be moved within the prescribed period of limitation. The applicant should and must have explained the delay from day to day, which she failed to do so.

4. That the contents of para-4 of the application are being replied as under :-

4(i) That the contents of para-4 (i) of the application need no comments.

4(ii) That the contents of para-4(ii) of the application need no comments.

4(iii) That the contents of para -4(iii) of the application need no comments.

4(iv) That the contents of para-4(iv) of the application need to comments.

4(v) That the contents of para-4(v) of the application need no comments.

4(vi) That the contents of para-4(vi) of the application need no comments.

4(vii) That in reply to para-4 (vii) of the application it is stated that the father of the applicant was declared fit on 3.3.87 and he worked the train no. 57 up and 58 Dn. on 8.3.87 and on his request he was sent for special medical examination where he was declared fit in medical category C-2 on 11.5.87.

Para 4 That the contents of para 4(viii) of the claim (viii) application are not admitted as stated. In reply thereof it is submitted that as per extent orders of the

Railway Board, when railway employee became crippled while in service or develop serious ailments like heart diseases,

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cancer etc. or otherwise medically decategorised for the job, they are holding and no alternative job of the same emoluments can be offered to them, <sup>one</sup> son/daughter should be eligible for compassionate appointments if such an employee opts.

It is further submitted that the petitioner on being declared medically ~~decategorised~~ <sup>/ decategorised</sup> was called to appear before the standing committee on 21.7.87 for alternative appointments. But despite he received the letter dated 14.7.87, he did not appear before the standing committee and intimated vide his application dated 21.7.87 stating that he had already given application on 15.7.87 that he was unable to perform duty of any post and requested for appointment of his daughter. Thus he did not appear before the ~~standing~~ Committee for alternative job, hence he was retired on 31.7.87 on attaining the age of superannuation. Thus the instant case does not come within the purview of the rules for appointments on compassionate ground. ~~h~~

4(ix) That the contents of para-4(ix) of the application are wrong hence denied. In reply thereto it is stated that the father of the applicant Sri P.L.Gaur was medically decategorised for medical category A-2 and found fit for medical category C-2 vide Divisional Medical Officer Aishbagh's certificate no.DR/765/86-87/dated 13/3.11/87. Consequently the father of the applicant was called to appear before the standing committee on 21.7.87 vide office order no.Ka/1/227/CL.III, /IV dated 14.7.87. On receipt of the said order Sri P.L.Gaur the father of the applicant attended the office but declined to appear before the Standing Committee and instead of appearing before the standing committee he submitted an application on 21.7.87 requesting therein for the appointment of his daughter Km. Aparna.

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Cc. 12  
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Gaur, the applicant. The father of the applicant again submitted an application dated 30.7.87 to Divisional Railway Manager Lucknow stating therein that he was unable to ~~perform~~ duty on any job. So the father of the applicant was retired on 31.7.87 on the date of his superannuation.

4(x) That the contents of para-4(x) of the application are wrong, hence denied. In reply thereto it is stated that the contents of para under reply have already been replied in the proceeding paras of this reply.

It is further submitted that the period from 15.5.87 to 31.7.87 was regularised as from 15.5.87 to 29.5.87 as leave on average pay (LAP) and the period from 30.5.87 to 31.7.87 was decided as Leave ~~=~~Without Pay. It is further stated that the due payments of the father of the applicant have been made and the same payments have been admitted by the respondent no. 3 in the O.A. no. 253 of 1990 (L) P.L. Gaur Vs. Union of India and others, under para 8 of the application. This clearly proves that the applicant has not ~~been~~ <sup>come</sup> before this Hon'ble Tribunal with clean hands and as such the application is liable to be dismissed. Statement contrary to it are denied.

4(xi) That the contents of para-4(xi) of the application are partially wrong, hence, denied. In reply thereto it is stated that the matter of the appointment of the applicant on compassionate ground was considered by the Competent Authority and matter was also referred to Railway Board. The decision taken by the Railway Board was advised by General Manager(P) Gorakhpur vide letter no.E/239/212/Class-III/Lucknow, / V dated 22.11.88

that the case of the applicant was not admissible under

the zone of compensatory ground and also the Railway Board has disapproved the same. Accordingly the applicant was informed vide letter no. E/1/227/Anukampa/C1.III/237 dated 29.11.88. The copy of the letter dated 22.11.88 is being annexed as annexure no. A-1 to this reply. The copy of the letter dated 29.11.88 has already been annexed as annexure no. A-1 to the original application.

4(xii) That the contents of para -4(xii) of the application are denied as alleged, except the letter dated 29.11.88 contained in annexure-1 of the original application.

4(xiii) That the contents of para-4(xiii) of the application are wrong, hence denied. In reply thereto it is stated that there is no such reason as the applicant presumed. It is further stated that applicant's case for appointment of compensatory ground was not covered under the rules.

4(xiv) That the contents of para-4(xiv) of the application are wrong, hence denied. In reply thereto it is stated that no such appeal dated 11.2.89 contained in annexure no. 7 to the application, is available in the official records. This fact shows that the applicant has fabricated such appeal only to cover up the period of limitation prescribed under the Administrative Tribunal Act, 1985. However if any alleged appeal has been sent by the applicant directly to the Hon'ble Deputy Minister Railways then in this respect it is submitted that the answering opposite parties have got no knowledge about the same.

4(xv) That the contents of para -4(xv) of the application are wrong hence denied. In reply thereto it is stated that the applicant does not come ~~within~~ within the purview of appointment on compassionate ground in view of the Railway Board's letter No.E(NG)III/78/RCI dated 3.9.83 communicated by General Manager(P) N.E.Railway, Gorakhpur vide No.E/239/0/V dated 21.9.83 and Rly. Bd's letter No.E(MG)III/78/RC-1/1 dated 7.4.83 communicated by G.M.(P) Gorakhpur vide letter No.E/239/0/V dated 25.4.83. The True copy of Railway Board's letter dated 7.4.83 and 3.9.83 are annexed to this reply as Annexure NQA/2 and A/3 respectively.

4(xvi) That the contents of para-4(xvi) of the application need no comments.

4(xvii) That the contents of para-4(xvii) of the application are not admitted in view of the facts and circumstances narrated in the preceding paras of this counter reply.

5. That in reply to para-5 of the application it is stated that the grounds taken therein are false, frivolous and fabricated as such these are not sustainable in the eyes of law. The application of the applicant deserves to be dismissed with cost throughout, in view of the facts and circumstances, stated in the preceding paras of this counter reply.

6. That the contents of para-6 of the application are not admitted hence denied, in view of the paragraph 4(xiv) of this counter reply.

7. That in reply to para 7 of the application it is stated that the applicant filed an application before this Hon'ble Tribunal which has been registered as

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O.L.No. 253 of 1990, P.L.Gaur and other Vs. Union of India and others, in which the present applicant is, applicant no.2.

8. That in reply to para -8 of the application it is stated that in view of the facts and circumstances stated in the precedings paras of this counter reply, the applicant is not entitled for any relief as prayed and her application deserves to be dismissed with cost throughout.

9. That the contents of para-9 of the application need no comments.

10. That the contents of para-10 of the application need no comments.

11. That the contents of para-11 of the application need no comments.

12. That the contents of para-12 of the application need to comments.

Dated:- 21.2.82

Lucknow

VERIFICATION

Mr. Divya ...  
V. E. ... Lucknow.

I, SMN Islam, the above named to hereby verify that the contents of paras 1 of this counter reply are true to my personal knowledge and those of paras 2 to 12 of this counter reply are true on the basis of the knowledge derived from the perusal of records relating to the instant case kept in the official custody of the answering respondents except legal averments which are believed by me to be true on the basis of legal advice. No part of this counter reply is false and nothing material has been concealed.

Dated:- 21.2.82

Lucknow

THROUGH

(B.K. Shukla)

Advocate, Counsel for the Respondents.



कार्यालय मुख्य कार्मिक अधिकारी  
पूर्वोत्तर रेलवे, गोरखपुर  
OFFICE OF THE CHIEF PERSONNEL OFFICER  
N. E. RAILWAY  
GORAKHPUR

26/11/88

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पुस 0 239/212/तु 0 0/लखनऊ/पाच

दिनांक 22/11/88

महाप्रबन्धक (का०)

पूर्वोत्तर रेलवे/लखनऊ

विषय:- अनुकम्पा के आधार पर श्री प्यारे लाल गोड भूतपूर्व गार्ड/  
लखनऊ का अपने पुत्री कुमारी अपर्णा गोड की नियुक्ति।

सन्दर्भ:- आपका अउस 0 40स 0 0 ई/1/228/अनुकम्पा/तु 0 0/237

दिनांक 22-4-88

उपरोक्त सन्दर्भ में यह सूचित किया जाता है कि कुमारी अपर्णा गोड  
पुत्री श्री प्यारे लाल गोड भूतपूर्व गार्ड की नियुक्ति का केस महाप्रबन्धक महोदय  
के अनुमोदन से रेल परिषद के विचारार्थ भेजा गया था। परन्तु रेल परिषद  
ने अपने त्राई ई (एन.जी.) 11/88/आरसी-1/112 दि. 5-10-88  
द्वारा यह सूचित किया है कि यह केस अनुकम्पा के आधार पर नियुक्ति की  
विधि में नहीं आता है और इस हेतु अपनी असहमति प्रदान की है।

(विशेष अधिकारी)

मुख्य अधिकारी

कृते महाप्रबन्धक (का०)

Attached copy

25/11

A. K. Singh

True copy

मुख्य अधिकारी

गोरखपुर

22/11/88

MUS

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O.A. NO. 399/ 90

Km. Aparna Gaur

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Applicant

Vs.

Union of India & others

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O.P.s

ANNEXURE NO. 2

NORTH EASTERN RAILWAY

ER 2-470  
S.No.1484

No.E/239/0/V

Office of the  
General Manager(F)  
Gorakhpur  
Dated 25-4-1983

All Heads of Departments,  
All Divl. Railway Managers,  
All Extra Divl. Officers,  
All Personnel Officers,  
North Eastern Railway.

Sub: - Appointment on compassionate grounds.

A copy of Railway Board's letter No.E(NG)III/78/RC1/1 dated 7.4.83 on the above subject is circulated to all concerned for information, guidance and necessary action.

Copies of Railway Board's letter No.+E(NG)III-78/RC1/1 dated 30-4-1979 as referred to in Board's letter dated 7.4.83/ already been circulated vide this office circular No.E/239/0/V dated 8.5.79.

Please acknowledge receipt.

DA/As above.

Sd/-  
for General Manager(F).

-----  
Copy of Railway Board's letter No.E(NG)III/78/RC1/1 dated 7.4.83 addressed to the ~~General~~ General Managers, All Indian Railways D.L.W., C.L.W. & LCF.

Sub: Appointment on compassionate grounds

Instructions regarding appointment on compassionate grounds have been issued from time to time. The instructions currently in force are those contained in Board's letter No. E(NG)III-78/RC1/1 dated 30.4.1979 as modified from time to time thereafter. These have now been consolidated and are reproduced below for the information and guidance of all concerned.

1- Circumstances in which compassionate appointments may be made.

Appointments on compassionate grounds relate to those appointments which can be made of dependents of Railway servants who lose their lives in the course of duty or die in harness otherwise while in service or are medically incapacitated. The circumstances in which appointments on compassionate grounds may be made are as below:

(i) When Railway servants lose their lives in the course of duty or get so crippled that they cannot do any work (this also in the course of duty for example, loco and traffic running staff in charge of trains involved in accidents.)

(ii) When Railway employees die in harness while in service before retirement.

- (III) Where an employee's whereabouts are not known for a period of 7 years and the settlement dues of the employee are paid to the family on this account. This limit of 7 years may be relaxed to 3 years on the merits of each case with the approval of the General Manager, subject to the condition that the services of the person appointed on compassionate grounds would be terminated in case the missing employee is traced subsequently.
- (IV) When Railway employees become crippled while in service or develop serious ailments like heart diseases, cancer etc. or otherwise medically decategorised for the job they are holding and no alternative job of the same emoluments can be offered to them.

Note :- The appointment on compassionate ground is admissible to the dependents/wards of regular employees only.

II. Son/daughter/widow/widower of the employees are eligible to be appointed on compassionate grounds in the circumstances in which such appointments are permissible. The benefit of compassionate appoints may also be extended to a "near relative". The eligibility of a near relative to such appointments will be subject to the following conditions.

- (i) The employee or the ex-employee should have no son or daughter or the son or daughter is a minor one and the wife/widow/widower cannot take up an employment.
- (ii) A clear certificate should be forthcoming from the wife/widow/widower that the near relative will act as the bread winner of the family.
- (iii) If the family certifies at a later date that the near relative who was appointed on compassionate grounds refuses to support the family the services of that employee are liable to be terminated.
- (iv) Once a near relative is appointed on compassionate grounds, no further appointment should be given later to a son or a daughter or the wife/widow/widower of the employee on compassionate grounds. The appointment of a near relative should not be considered if a son or the daughter or the wife/widow/widower is already working and is earning.

Note(B): Near Relatives would normally mean a blood relation who can be considered to be a bread winner for the family.

III. Time limit for making compassionate appointments.

Normally all appointments on compassionate grounds should be made within a period of 5 years from the date of Occurrence of the event entitling the eligible person to be appointed on this ground. This period of 5 years may be relaxed (where for example the widown cannot take up employment & the sons/daughters are minor) with the approval of the General Manager in deserving cases while compassionate appointments are sought on the ground of an employee losing his life or getting crippled in the course of duty. In other cases relaxation of the 5 year limit will require the approval of the Ministry of Railways for which purpose the requisite reference giving special reasons for the proposed relaxation should be made with the personal recommendation of the General Manager based on the special circumstances obtaining in individual cases.

IV. Qualifications and conditions to be fulfilled.

Normally the persons seeking appointment on compassionate grounds should fulfil the conditions of eligibility regarding age and educational qualifications prescribed for appointment to the post or grade concerned. However, the upper age limit may be freely relaxed on the merits of the cases. The lower age limit of 18 years normally required for appointment in Government may also be relaxed upto one year with the a personal approval of the General Manager. Relaxation of the lower age limit beyond one year will require the approval of the Ministry of Railways.

The educational qualification prescribed for the post of be offered should not in any case be relaxed. However, if on the merits of an individual case the General Manager feels that such a relaxation of the minimum educational qualification is absolutely necessary, then such cases may be referred to the Ministry of Railways.

V. Grades in which appointments can be made on compassionate grounds.

All appointments on compassionate grounds should be made only in the recruitment grades like Office Clerks, Commercial Clerks, Assistant Station Masters, etc. No appointment should be made on compassionate grounds in an intermediate grade i.e. one which is filled purely by promotion. Appointments on compassionate grounds are also not permissible in the category of Traffic Apprentices/ Commercial Apprentices (grade Rs. 455-700) and Engineering graduate apprentices (grade Rs. 550-750) because direct recruitment in these grades is proportionately very limited.

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VI. Procedure to be followed before making compassionate appointments.

The candidates applying for appointments on compassionate grounds should be subjected to a suitability test by a Committee of three Senior scale officers one of whom should be a Personnel Officer. The test need not be very rigid. It has only to be ensured that the person concerned would be in a position to discharge the duties of the post being offered to him. The test is also meant to assess the aptitude of the person for the particular job proposed to be assigned to him. It should be conducted keeping compassion in view which is the basis for such appointments.

The candidates who are to be offered appointments on compassionate grounds may also be required to submit a character certificate from two Gazetted officers.

VII. Authority competent to make appointments on compassionate grounds.

The power to make compassionate appointments is vested in the General Manager. The General Manager may, however, redelegate this power to the Divisional Railway Manager and also to Heads of the extra Divisional units who are in Level I or Level II subject to such control as he may like to impose on the exercise of such power by these authorities. Proposal for appointment on compassionate grounds of dependants of gazetted officers should, however, be referred to the Ministry of Railways for approval.

VIII. Priorities to be observed in making appointments on compassionate grounds.

The following should be the order of priority to be followed while making appointments on compassionate grounds:•

- (i) Dependents of employees who die or are permanently crippled in the course of duty;
- (ii) Dependents of employees who die in harness as a result of railway accidents when off duty;
- (iii) Dependents of employees who die in service or are medically incapacitated.

For the proper enforcement of priorities, separate lists should be maintained in each office/for the categories indicated above, the date of priority being from the date of eligibility. All appointments should be made strictly in this order. Where, for any special reasons, it is felt necessary to depart from the priority list, the sanction of the next higher authority (GPO for appointments to group 'C' posts) must be obtained giving details for ignoring the priority and the list of persons being put back in the priority list. Such cases should, however, be rare.

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A time limit of one month should be observed within which appointments should be given in priority(i) cases and three months in cases relating to priority(ii) and (iii) subject to vacancies being available. To accommodate the illiterate widows of the deceased railway employees, posts of Waiting Room bearers, Waterwomen, Hospital Ayah/attendant (female), Cinder picking women, Seeper women, C&W Khalasis for waste packing Retiring room attendant, Servers, Khalasis attached to Sub-divisional officers like EN's PWIs, a percentage of vacancies of office ~~peons~~ peons etc.

#### IX. General

When offering appointment on compassionate grounds to a widow, son, daughter, etc. it need not be checked up whether another son/daughter is already working; but in no case should there be more than one appointment against one death/medical incapacitation. For example, it should not be permitted where the family wants another son or daughter to be employed in lieu or in addition to an appointment already made on compassionate grounds.

Once an appointment on compassionate grounds of the ward/widow etc. has been made in a particular category, no change of category is subsequently permissible.

#### X. Relaxation.

Wherever any deviation from the above provisions are sought to be made in individual cases of merit, the prior approval of the Ministry of Railways should be obtained and in such cases personal approval of the General Manager should be indicated in the references.

Hindi version will follow.

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O.A. NO. 399/ 90

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Km. Aparna Gaur

Applicant

Vs.

Union of India &amp; others

O.P.s

ANNEXURE NO. 3

NORTH EASTERN RAILWAYEP-2 488  
S/No.1608OFFICE OF THE  
GENERAL MANAGER(P),  
GORAKHPUR.

No.E/239/0/V

Dated: 21.9.1983.

All Heads of Departments,  
All Divl. Railway Managers,  
All Extra Divl. Officers,  
All Personnel Officer,  
North Eastern Railway.

Subj: - Employment on Compassionate Grounds.

\*\*\*\*

A copy of Railway Board's letter No.E(NG)III/78/RS1/1 dated 8.9.1983 on the above subject is circulated to all concerned for information and future guidance.

Copy of Railway Board's letter No.E(NG)III/78/BC1/1 dated 7-4-1983 as referred to in Board's dated 3-9-1983 has already been circulated vide this office circular No.E/239/0/V dated 25-4-1983 (S.No. )

Please acknowledge receipt.

Sd/-  
for GENERAL MANAGER(P).

-----  
Copy of Railway Board's letter No.E(NG)III/78/BC1/1 dated 3.9.1983 addressed to the General Managers, All Indian Railways and others.

\*\*\*\*\*

In terms of the instructions contained in para I (iv) of Ministry of Railways' letter of even number dated 7-4-1983, appointments on Compassionate grounds may be offered where Railway employee becomes medically decategorised for that job is holding and no alternative job with the same emoluments can be offered to him.

2. During discussions in the meetings of the Departmental Council of J.C.M. held on 25th and 29th June, 1983 and 29th and 30th July, 1983 the staff side demanded that even in those cases where, on being medically decategorised, a railway employee is offered no alternative job on the same emoluments, his son or daughter should be offered employment on Compassionate grounds if the employee himself opts to retire voluntarily.

3. After careful consideration of the matter it has been decided that in cases where a railway employee is offered alternative employment on the same emoluments but it is not accepted by the employee and he chooses to retire from service, compassionate appointment of an eligible ward of the employee, if so requested by him, can be considered at the discretion of the competent authority provided that if the employee has less than three years of service before superannuation i.e. he is past the age of 55 years at the time the decision is taken, the personal approval of the General Manager has to be obtained before the offer of appointment on Compassionate grounds is made.

Sd/-  
Deputy Director Retiree (W) P. P.

True Copy

1st copy to Tribunal

(A5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW.

O.A. No. 399 of 1990 (L)

Ka. Aparna Gaur ..... Applicant.

v/s

Union of India and others. .... Respondents.

Fixed For: 20-5-1992

Applicant's Rejoinder to counter reply on  
behalf of Respondent No. 1 and 2.

1. That the contents of para 1 of counter reply (in short C.R.) need no comment except that ~~makamurata~~ letter of authorisation has not been filed on behalf of respondent No.1. Further the C.R. is filed beyond the period of limitation prescribed ~~makamurata~~ without a prayer for condonation of delay in filing the C.R. Hence the C.R. cannot be admitted on the record of proceedings of the Tribunal.
2. That the contents of para 2 of C.R. need no comments.
3. That the contents of para 3 of C.R. are not admitted and it is stated that a separate application for condonation of delay in filing Original Application (in short O.A.) duly supported by an affidavit has already been considered by the Tribunal. Hence the objection on this ground has no force and it is liable to be rejected.
4. That the contents of para 4 of C.R. are commented as under:-
  - (i). That the contents of para 4(i) of C.R. need no comments.
  - (ii). That the contents of para 4(ii) of C.R. need no comments.
  - (iii). That the contents of para 4(iii) of C.R.

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Aparna Gaur

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need no comments.

(iv). That the contents of para 4(iv) of C.R. need no comments.

(v). That the contents of para 4(iv) of C.R. need no comments.

(vi). That the contents of para 4(vi) of C.R. need no comments.

(vii). That the contents of para 4(vii) are not admitted as stated. The contents of para 4 (vii) of C.R. are re-iterated. It is further stated that the father of the applicant was already unfit in Medical Category A-2 on 3-3-1987. He was fit only in Medical Category C-2 on this date. The Divisional Medical Officer issued a fit certificate in bad faith to deprive the father of the applicant from accident claim compensation <sup>for</sup> partial permanent dis-ablement of his eyesight on account of accident on duty on 1-11-1986. His father, while working on 8-3-1987 Ex. Lucknow Jn.-Kampur Anwerganj on train No. 57 and 58 felt practical difficulties for his personal safety as well as working of the train. The Station Superintendent Lucknow Jn. realised the gravity of the aspect of Safety and he sent for his Special Medical Examination and the result was that he was declared medically decategorised from medical category A-2 to Guard to C-2. There was no post for his absorption nor he was absorbed in Medical Category C-2 upto the date of his normal retirement on 31-7-1987 nor he was paid salary or leave salary from 29-5-1987 to 31-7-1987

4(viii). (viii). That the contents of para 4(viii) of C.R. are not admitted as stated. and the contents of para 4(viii) of C.R. are re-iterated.

(a). It is further submitted that the extent order of the Railway Board has been misinterpreted on behalf of respondents No. 1 and 2 i.e.:-

contd-3

Aparna Gaur

" When Railway employee crippled while in service or develop serious ailment like heart disease cancer etc. or otherwise medically de-categorised for the job, they are holding and no alternative job of the same emoluments can be appeared offered to them. One Son/daughter should be eligible for compensante appointment if such an employee opts"

(b). It is further made clear that the eyesight of the father of the applicant crippled on account of head injury in accident on duty while working as a Guard on train on 1-11-1986. Thereby causing permanent partial loss of his eyesight and in-capable of performing the duty of Guard in Medical Category A-2. on this account he was entitled for his retirement on the date of decategorisation on 11-5-1987 and appointment of the applicant on compensante grounds.

(c). It is further submitted that a railway employee is entitled for Encashment of 240 days of L.A.P. at his credit at the time of his retirement but her father had no such leave for encashment on account of already consumption of his leave for the reasons of serious ailment in the recent past service periods.

(d). It is further made clear that after his medical decategorisation on 11-5-1987, her father was not absorbed in medical category C-2 nor any post was available for his absorption in medical category C-2 on equal emoluments of Guard.

(e). It is further made clear that the father of the applicant was not paid salary or leave salary for the period from 29-5-1987 to 31-7-1987.

contd-1

Aparna Gaur

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(P). It is therefore squarely proved that the father of the applicant was entitled for his retirement from 10-5-1987 and ~~the applicant was entitled for appointment on~~ <sup>The applicant was entitled for appointment on</sup> ~~and on~~ <sup>is self explanatory</sup> compassionate ground.

1. (ix) That the contents of para 4. (ix) of the C.R. are not admitted as stated and the contents of para 4. (ix) of O.A. are re-iterated. It is further made clear that the father of the applicant was not offered any post for his absorption in medical category C-2 nor there was any post available for his absorption on equal emoluments of Guard in medical category C-2 nor he was paid salary or leave salary for the period from 29-5-1987 to 31-7-1987. Hence his retirement on 31-7-1987 is unjust, illegal, void and inoperative.

1. (x). That the contents of para 4. (x) of C.R. are denied as stated and contents of para 4. (x) of O.A. are re-iterated. Further comments have already been made in para 4. (viii) of this rejoinder.

4. (ix). That the contents of para 4. (xi) of C.R. are not admitted as stated and contents of para 4. (xi) of O.A. are re-iterated. It is further submitted that under section VII of letter dated 25-1-1983 contained in ANNEXURE-2 to C.R. the authority for appointment on compassionate ground is the General Manager who failed to exercise his jurisdiction. The Railway Board exercised jurisdiction not vested in it illegally. The recommendations by the General Manager to Railway Board <sup>is self explanatory</sup> ~~also~~ that the considered opinion of the General Manager is in favour of the applicant for appointment of the applicant on compassionate ground. Therefore the contents of G.M. (P) letter dated 22-11-1988 read with Railway Board letter dated 7-10-1988 contained in ANNEXURE 1-1 to C.R. are unjust, illegal void and inoperative and the applicant is entitled for her appointment on compassionate ground.

contd-5

Aparna Gaur

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4. (xii). That the contents of para 4. (xii) of the C.R. are not admitted and re-iterated of O.A.

4. (xiii). That the contents of para 4 (xiii) of C.R. are not admitted and contents of para 4. (xiii) of O.A. are re-iterated. It is further submitted that the applicant is entitled for appointment on compassionate ground under the provisions of letter dated 25-4-1983 and March, 1986 contained in ANNEXURE-2 to C.R. and A-3 to O.A. respectively.

4. (xiv). That the contents of para 4 (xiv) of C.R. are denied and the contents of para 4 (xiv) of O.A. are re-iterated. It is further submitted that a copy of letter dated 11-2-1988 to the Railway Board was duplicated to the General Manager. This assertion has been made in para 4 of applicant supporting the application for condonation of delay in filing the O.A. which has not been re-butted by any counter affidavit on behalf of the respondent No.1 and 2.

4. (xv). That the contents of para 4 (xv) of C.R. are not admitted as stated and contents of para 4 (xv) of O.A. are re-iterated. It is further submitted that the rules referred to have been misinterpreted under the provisions of letter dated 25-4-1983 and March, 1986 contained in Annexure-2 of C.R. and A-3 to O.A. respectively the applicant is entitled for her appointment on compassionate ground.

4. (xvi). That the contents of para 4 (xvi) of C.R. need no comments.

4. (xvii). That the contents of para 4 (xvii) of C.R. are not admitted and contents of para 4 (xvii) of O.A. are reiterated.

5. That the contents of para 5 of C.R. are not admitted and contents of para 5 of O.A. are re-iterated.

contd-6

Aparna Gaur

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6. That the contents of para 6 of C.R. are not admitted and contents of para 6 of O.A. and para 4(xiv) of rejoinder are re-iterated.
  7. That the contents of para 7 of C.R. need no comments.
  8. That the contents of para 8 of C.R. are not admitted and contents of para 8 of O.A. are re-iterated.
  9. The contents of para 9 of C.R. need no comments.
  10. The contents of 10 of C.R. need no comments.
  11. The contents of para 11 of C.R. need no comments.
  12. The contents of para 12 of C.R. need no comments.
  13. The applicant, being out of Lucknow, the filing of Rejoinder in time is delayed which may kindly be condoned.
- Lucknow,  
Dated: 16-4-1992  
Verification.
- Aparna Gaur  
Applicant.  
Jitendra Kumar  
Assistant  
cc - and for App. Court -

I, Mr. Aparna Gaur aged about 23 years  
D/O Sri P.L. Gaur r/o 28 Raminder Palle, Faizabad  
Road, Lucknow do hereby verify that the contents  
of para 1 to 13 of this rejoinder are true to  
my personal knowledge and that the material  
facts have not been suppressed.

Lucknow

Aparna Gaur  
Applicant.

Dated: 16.4.1992

1st copy for submission  
In the Central Administrative Tribunal Lucknow.

M.P. No. 418 of 1991  
IN

O.A. No. 399 of 90(I)

In the matter of:

Km. Aparna Gaur ..

.. Applicant

Versus

Union of India and others.

.. Respondents

Fixed for 25-7-1991

Application for listing of O.A. No. 399 of 90(I) and  
O.A. No. 253 of 90(I) together for adjudication.

f.f. 6.8.91

It is most humbly submitted as under:-

1. That the O.A. No. 399 of 90(I) is for appointment of the applicant on compassionate ground fixed for filing reply on 25-7-1991 by extended time.
2. That the father of the applicant Sri Paru Lal Gaur has filed a O.A. No. 253 of 90(I) in which the appointment of the applicant Km. Aparna Gaur on compassionate ground is also one of the matter for adjudication. The O.A. is fixed for 6-8-1990 for filing the reply by extended time.
3. That on account of delay in the adjudication of the two applications, the applicants are suffering irreparable losses.

P R A Y E R

Wherefore it is prayed that the Hon'ble Tribunal may be pleased to list the O.A. No. 399(I) of 90(I) and O.A. No. 253 of 90(I) together for adjudication at an early date.

Lucknow

Dated: 25-7-1991

Aparna Gaur  
( Km. Aparna Gaur )

Applicant.

For signature  
Handwritten signature  
and for stamp

Filed today  
25-7-91

In the Central Administrative Tribunal Lucknow.

C.A. No. 399 of 90 (T)

ASB

In the matter of:

Km. Aparna Gaur

Versus

Union of India and others.

.. Applicant

.. Respondents

Fixed for 25-7-1991

Reply on behalf of Respondent Nos. 3 & 4 are as under:-

1. Para 1 of the application is admitted.
2. Para 2 of the application is admitted.
3. Para 3 of the application is admitted.
4. Paras 4(i) to 4(xvii) of the application are admitted.
5. Para 5 of the application is admitted.
6. Para 6 of the application is admitted.
7. Para 7 of the application is admitted.
8. Para 8 of the application is admitted.
9. Para 9, 10, 11 and 12 are formal nature, hence need no reply.

Verification

We the undersigned Respondents No. 3 and 4 do hereby verify that the contents of paras 1 to 9 of the reply are true on legal advice received and believed by us true. No material fact has been suppressed.

*P. Gaur*

Lucknow:

Dated: 25-6-1991

1. (Pyare Lal Gaur)  
S/o Sri Gur Pd. Gaur,  
R/o 78, Ravindra Palli,  
Faizabad Road, Lucknow.

Respondent No. 3.

*Archana Gaur*

2. (Km. Archana Gaur)  
D/o Sri Pyare Lal Gaur,  
R/o 78, Ravindra Palli,  
Faizabad Road, Lucknow.

Respondent No. 4.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW. <sup>AS9</sup>

O A NO. 399 OF 1991 (L)

Kim APARNA GAUR

APPLICANT

VS

UNION OF INDIA + 3 OTHERS

RESPONDENT

Fixed For 25/7/1991

LETTER OF AUTHORISATION OF AGENT

WE THE UNDERSIGNED RESPONDENTS NO. 3 & 4  
AUTHORISE SRI BANSRAJ YADAVA R/O C-322 INDIRANAGAR  
LUCKNOW IN THE ABOVE O A NO 399 of 1991 (L)  
TO ACT AS AGENT. HIS CONSENT IS GIVEN BELOW:-

LUCKNOW-

DATED. 25TH JULY 1991

*Gaur*

1. (PYARE LAL GAUR)  
RESPONDENT NO 3

*Archana Gaur*

2. (Kim ARCHANA GAUR)  
RESPONDENT NO 4.

I AGREE TO ACT AS AGENT IN THE ABOVE O-A  
NO 399 of 90(L) FOR RESPONDENT NO. 3 & 4.

*Bansraj Yadava*

(BANSRAJ YADAVA) <sup>25/7/1991</sup>

R/O C. 322 INDIRANAGAR  
LUCKNOW-

In the Central Administration Tribunal Lucknow

अदालत भीमान

Original Application No

1550

महोदय

वादी अपीलान्त

प्रतिवादी [रेस्पॉण्डेंट]

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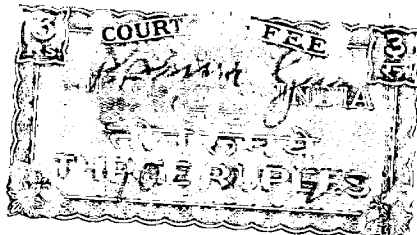
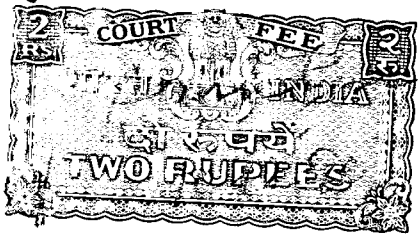
वकालतनामा

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Aparna Gaur

Union of India

Respondent



बनाम

Aparna Gaur  
10/11/2010

नं० मुकद्दमा

सन्

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Mohd. Siras Advocate

S. R. 4 Barar Court, Lucknow

वकील

व..... महोदय

एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर Aparna Gaur

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

स्वीकृत

12

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AGI

NS/CCS

# VAKALATNAMA

Before  
in the Court of

The Central Administrative Tribunal Circuit Bench Lucknow  
CA No. 399/90(4)

Plaintiff  
Defendant

Kumar Aparna Jain

Claimant  
Appellant

Versus

Defendant  
Plaintiff

Union of India and others

Petitioner  
Respondent

The President of India do hereby appoint and authorise Shri

B. K. Shukla

Railway Advocate Lucknow

.....to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri

B. K. Shukla

Railway Advocate Lucknow

in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the .....day of.....198

Dated .....198

SLR-84850400-8000-4 7 84

Accepted  
B. K. Shukla  
Advocate

Smt. N. N. Desai  
(S. M. N. Desai)  
Designation of the Executive Officer,

प्रकार भण्डन कर्ता अतिरिक्त,  
एडवोकेट जनरल, सरकार

For Union of India

(C. P. M. I.)

# VAKALATNAMA

162

Before Central Administrative Tribunal Circuit Bench Lucknow  
in the Court of

OA No. 399 of 1980 (L)

Kumari Aparna Gupta

Versus

Union of India and others  
I/we K. P. Singh, Genl. Railway Manager  
North Eastern Railway, Lucknow

do hereby appoint and authorise Shri. B. K. Shukla

Railway Advocate, Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri. B. K. Shukla

Railway Advocate, Lucknow  
in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this

day of 1980

Accepted  
Advocate (K. P. Singh)  
Cmtr 1/4

(O.P. No. 2)

(See rule 114)

OA/TA/RA/CP/MA/PT 253/9...of 20...90

*Versus*

# INDEX SHEET

Certified that the file is complete in all respects.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIVIL BENCH, LUCKNOW

Date of filing 9/8/90  
Deputy A. S. 1/3

Registration No. 255 of 1989 90 (L)

APPLICANT(S) Shri. [Name] [Address]

RESPONDENT(S) [Name] [Address]

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal competent?	yes
2. a) Is the application in the prescribed form?	yes
b) Is the application in paper book form?	yes
c) Have six complete sets of the application been filed?	yes
3. a) Is the appeal in time?	yes
b) If not, by how many days it is beyond time?	N/A
c) Has sufficient case for not making the application in time, been filed?	yes
4. Has the document of authorisation/ Vakalatnama been filed?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have two copies of the documents/rolled upon by the applicant and mentioned in the application been filed?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?	yes
c) Are the documents referred to in (a) above neatly typed in double paper?	yes
8. Has the index of documents been filed and paging done properly?	yes
9. Have the chronological details of representation made and the outcome of each representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal?	No

(B)

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/separate copies signed ? yes
12. Are extra copies of the application with annexures filed ? yes
  - a) Identical with the Original ? yes
  - b) Defective ? x
13. Writing in Annexures  
 No. \_\_\_\_\_ pages Nos \_\_\_\_\_ ?
14. Are the file size envelopes bearing full addresses of the respondents been filed ? yes
15. Do the names of the parties stated in the copies tally with those indicated in the application ? yes
16. Are the translations certified to be true or supported by an affidavit affirming that they are true ? yes
17. Are the facts of the case mentioned in item no. 6 of the Application ? yes
  - a) Concise ? yes
  - b) Under distinct heads ? yes
  - c) Numbered consecutively ? yes
  - d) Typed in double space on one side of the paper ? yes
18. Have the particulars for interim order prayed for indicated with reasons ? yes
19. Whether all the remedies have been exhausted. yes

Signature/

9/8/90

253/90 (C)

(A)

2.10.90

No sitting Aai to 26.10.90

Q

26.10.90

No sitting Aai to 8.11.90

Q

8.11.90

Hon. Mr. M. V. Bridkar. AM.  
Hon. Mr. D. K. Agrawal. J M

Due to resolution of Bar Association  
case is adjourned to 7.11.90.

7.11.90

Hon Mr M. V. Bridkar, AM.  
Hon Mr D. K. Agrawal, J M

Shri Mohd. Ilyas for applicant.

Q  
B.O.C.

We have heard the learned  
counsel for the applicant. We have  
carefully considered the point raised  
on 10.9.90. We are of the opinion  
that this claim petition may be  
admitted only on request of applicant.  
No. 1 & accordingly we ADMIT  
the petition. counter may be filed  
within 4 weeks, rejoinder within  
2 weeks thereafter. List for orders  
on 11-1-91.

The applicant No. 2 may file  
a separate petition for relief of appointment  
on compassionate grounds.

Dec

J M

AM

O.A. 253/90

6.8.91

D.R.

Both the parties  
are present. Counter  
has not been filed  
O.P. to file counter  
by 29/10/91.

29.10.91

D.R.

Both the parties are  
present. Respondent  
to file counter by  
6/12/91. A.M.P/ 662/91  
has been filed on b'f  
of applicant for  
permission to file  
additional documents.  
Case is listed for  
disposal of M.P.  
on 6/12/91.

6.12.91

No sitting adjn 8.1.92

8.1.92

No sitting adjn 6.2.92

6.2.92

No sitting adjn 16.3.92

AS

Application under Section 19 of the Administrative Tribunal Act 1985.

9/8/90

*[Signature]*  
7/11  
Secretary - 1985

PYARI TAJ Gaur & others

... Applicant(s)

VERSUS

Union of India & others.

... Respondents

I N D E X

<u>S.No.</u>	<u>Description of documents.</u>	<u>Pages</u>
<u>Compilation No. 1.</u>		
1.	Application.	1 - 8
2.	Annexure 1-1 Service Certificate dt. 31-7-87	9 - -
3.	Annexure 1-2 Letter dated 29-11-88	10 - -
<u>Compilation No. 2.</u>		
4.	Annexure 1-3 Memo dated 1-11-86.	11 - -
5.	Annexure 1-4 Certificate dated 6-11-86.	12 - 12A
6.	Annexure 1-5 Certificate dated 3-3-87	13 - -
7.	Annexure 1-6 Certificate dated 13-3-87	14 - -
8.	Annexure 1-7 Application dated 15-5-87	15 - -
9.	Annexure 1-8 Application dated 13-10-87	16 - 18
10.	Annexure 1-9 Application dated 11-2-89	19 - 21
11.	Vakalatnama	22 - -
12.	Letter for ...	23

for 10-2-90  
7/11/90  
9/8/90

Secretary  
9/8/90

Incknow:  
Dated: 8-8-1990

P. L. Gaur  
Applicant  
*[Signature]*  
Arvind

(10)

Registered No. <u>253/90(1)</u>
For/ Registrar

In the Central Administrative Tribunal, Lucknow.

1. Pyare Lal Gaur aged 61 years S/o Sri Gur Prasad Gaur  
R/o 78, Rawindra Palli, Faizabad Road, retired from the  
post of Guard 'A' under Divisional Railway Manager  
(Operating), W.F. Railway, Ishik Marg, Lucknow.
2. Km. Arpana Gaur aged 22 years D/o Sri Pyare Lal Gaur,  
R/o 78, Rawindra Palli, Faizabad Road, Lucknow.

... Applicant

Versus

1. Union of India through General Manager, W.F. Railway,  
Gorakhpur.
2. Divisional Railway Manager (P), W.F. Rly., Lucknow.
3. General Manager (P), W.F. Railway, Gorakhpur.

... Respondents

Details of Application.

1. Particulars of orders against which application is made:-

- (i) Divisional Railway Manager (P) Lucknow No. 20251  
dated 31-7-87 regarding Service Certificate.

Annexure A-1

- (ii) Divisional Railway Manager (P) Lucknow Letter No.  
1/1/227/Compensation/Class III/237 dated 29-11-1988  
and General Manager (P) Gorakhpur Letter No. 1/239/  
212/Class III/Lucknow/1 dated 22-11-1988 regarding  
appointment on compassionate ground.

Annexure A-2

*P. L. Gaur  
Aparna Gaur*

Contd. . . . (2)

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2. Jurisdiction of Tribunal.

The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of Tribunal.

3. Limitation.

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case.

(i) That the applicant No.1 was appointed on Railway on 8th December 1950. He was born on 6th July 1929 and his normal retirement was due on 31st July 1987. At the end of his service, the applicant was on the post of Guard 'A'. The Applicant No. 2 is daughter of the Applicant No. 1.

(ii) That the Railway servants are classified in seven Medical Categories viz. A-1, A-2, A-3, B-1, B-2, C-1 and C-2. The Category A-1 is highest and C-2 is lowest Medical Category. The middle ones are lower in seniority.

(iii) That the Applicant No.1 was in Medical Category A-2 for Guard 'A'. In this category the Railway servants are periodically medically re-examined once in each year after attaining the age of 45 years. Special Medical Examinations are conducted at any time when urgency arises in the case of Safety Category. The post of Guard 'A' is of Safety category.

P.L. Gaur  
Aparna Gaur

Contd. . . . (2)

AS/

- (3v) That the Applicant No.1 met an accident on duty while he was working 240 on train between Lucknow and Kampur Anwarganj station on 1-11-1986. Some miscreants caused injuries on the head of the Applicant No. 1 by throwing stones at Varanasi station. The said injuries, although treated in the Railway Hospital, but incapacitated him for further duty and for normal life in future on account of adverse affects in the brain nerves.
- (v) That the Station Supt. Lucknow vide his Memo dated 1-11-86 sent the Applicant No. 1 to D.M.O./ASH at JN for treatment of his head injuries. Also F.I.R. was lodged with G.R.P./Lucknow as Crime No.828/86. The Applicant No. 1 was sent to N.Hy. Hospital at Lucknow for expert treatment. The applicant was declared fit for duty on 3-3-1987. Annexure A-3, A-4 and A-5 are true copies of Medical Memos and Fit Certificate.
- (vi) That although the applicant was given Fit certificate on 3-3-1987 contained in Annexure A-5, he was unable to perform the duties of Guard 'A'. So he was sent for Special Medical Examination on 9-3-87. Accordingly the Applicant No.1 was medically decategorised from A-2 to G-2 on 13-3-1987. Annexure 1-6 is true copy of his Medical Certificate for decategorisation.
- (vii) That it is open to the medically decategorised staff either to accept alternative employment on equivalent post having equal emolument or to accept retirement. There was no possibility of suitable alternative employment, hence the applicant No. 1

P.L. Gaur  
Aparna Gaur

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chose to accept retirement. Accordingly the Applicant No. 1 moved an application for refusal for alternative employment and to accept retirement on 15-5-87. Annexure A-7 is true copy of the said application.

- (viii) That the application dated 15-5-87 contained in Annexure A-7 was not acted upon in time and <sup>in</sup> bad faith and the Applicant No. 1 was forced to retire on 31-7-87 in the normal course. His retirement on 31-7-87 is unjust, illegal, void and inoperative and the Applicant No. 1 is deemed to have been retired on 15-5-87 on the basis of his application

- (ix) That statutory provision exists for payment of compensation for incapacitation on account of accident on duty. But no such compensation has been paid to the Applicant No. 1 who is entitled for the compensation amounting to Rupees One Lakh or any lesser amount deem just and proper.

- (x) That further statutory provision exists for appointment of son/daughter of Railway servant who while in Railway service, is medically categorised and who accept retirement. Special consideration is given for incapacitation on account of accidents on duty. Such appointments are called "Appointment on compassionate grounds."

- (xi) That the wife of the Applicant No. 1 died just after his retirement. He has only two unmarried daughters. The daughters are the help of the applicant in his old age. His elder daughter is Km. Arpana Gaur

P.L. Gaur  
Arpana Gaur

aged 22 years the Applicant No. 2 who has the following educational qualification.

- (i) Passed Matriculation Examination in the year 1985 in ~~2<sup>nd</sup>~~ 1st. Division.
- (ii) Passed Intermediate Examination in the year 1987 in IInd. Division.
- (iii) Appeared at B.A. Pt. III final Examination in the year 1990.

(xii) That Applicant No. 1 moved an application to the General Manager, Gorakhpur on 13-10-87 contained in Annexure A-8 praying therein for appointment of his daughter aforesaid Applicant No. 2 on compassionate ground. In reply contained in Annexure A-2, it is stated that the appointment on compassionate ground is not possible. The said reply is discriminatory and violative of Article 14 and 16 of Constitution of India. As such it is unjust, illegal, void and liable to be set aside.

(xiii) That on receipt of reply contained in Annexure A-2, the Applicant No. 2 moved an application to the Railway Minister, New Delhi on 11-2-89 for her appointment on compassionate ground. But no reply has been received as yet. Annexure A-9 is true copy of the said application.

(xiv) That the Applicant No. 2 is legally entitled for her appointment on compassionate ground and <sup>on</sup> expiry of six months after filing the application before the Railway <sup>Ministry</sup> Board, this application is made before the Honourable Tribunal.

P. L. Gaur  
Aparna Gaur

Contd. . . . . (6)

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5. Grounds of reliefs with legal provision.

That on the basis of facts mentioned in Para 4 of the application, the applicants are entitled for the relief on the followings amongst other grounds:-

- (a) because the statutory provision exists for retirement on account of medical decategorisation if alternative employment is refused.
- (b) because the statutory provision for appointment on compassionate ground is violated.
- (c) because non-appointment of Applicant No. 2 on compassionate grounds is a discrimination and violative of article 14 and 16 of Constitution of India.
- (d) because the impugned order dated 31-7-87 and 29-11-1988 contained in Annexure A-1 and A-2 are unjust, illegal, void and liable to be set aside.
- (e) because the Applicant No. 2 is entitled for her appointment on compassionate ground.
- (f) because the applicant was medically decategorised and incapacitated on account of accident on duty.
- (g) because the compensation for incapacitation on account of accident on duty has been denied.

6. Details of remedies exhausted.

The applicant declared that he had availed of all the remedies available to him under the relevant Service Rules etc. viz.

- (1) Representation dated 13-10-1987 to the General Manager, Gorakhpur. Annexure A-3.

P.L. Gaur  
Aparna Law

Contd. . . . . (7)

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(ii) Representation dated 11-2-89 to the Railway Minister, New Delhi and copy to General Manager, Gorakhpur. Annexure A-9.

7. Matters not previously filed or pending with any court.

The applicant further declares that he had not previously filed any application, Writ Petition or suit regarding the matters in respect of this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or suit is pending before any of them.

8. Relief(s) sought.

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs for :-

(a) Declaring that the Applicant No. 1 is deemed to have been retired on 15-5-87 on account of medical declassification and incapacitation in accident on duty. Accordingly his retirement on 31-7-87 contained in Annexure A-1 is deemed to have <sup>taken place on</sup> ~~been effected~~

*only* ~~on~~ 15-5-87 and payment of arrears of ~~his salary~~ <sup>pay</sup> pension from 15-5-87 to 31-7-87 may be paid

(b) declaring that the Applicant No. 2 is entitled for her appointment on Class III post on compassionate ground and the impugned orders dated 22-11-88 and 29-11-88 contained in Annexure A-2 are unjust, illegal, void and to be set aside.

(c) directing the respondents for making appointment of Applicant No. 2 on Class III post on compassionate ground.

(d) directing the respondents for making payment to Applicant No. 1 amounting to wages on a daily or any

*P.L. Gaur  
Aparna Gaur*

1. Lesser amount deemed just and proper on account of incapacitation in accident on duty.

(d) any other relief deemed just and proper in the circumstances of the case.

(f) cost of the application.

9. Interim order if any prayed for. - *Nothing*

10. *Nothing. Not applicable.*

11. Particulars of Postal Order filed in respect of the application are:-

(i) No. of Indian Postal Order. 02- 414751

(ii) Name of Issuing Post Office. *High Court Lucknow*

(iii) Date of Issue of Postal Order. 8.8.1990

(iv) Post Office at which payable.

12. List of Inclosures.

is given in details in the Index of the application.

1. P.L. Gaur

Tucknow.

2. Aparna Gaur

Dated: 7-8-1990

Applicant

Verification

*Deep Chandra*  
*Ashok*

I, Pyare Lal Gaur S/o Sri Gur Pd. Gaur aged 61 years Applicant No.1 retired from the post of Guard 'A' from the office of Divisional Railway Manager (Operating), W.P. Rly., Ashok Marg, Tucknow B/o 78, Ravindra Palli, Faizabad Road, Tucknow do hereby verify that the contents of paras 1 to 5 are true to my personal knowledge and para 6 to 12 to be true on legal advice and that I have not concealed any material fact.

Tucknow:

Dated: 7-8-1990

P.L. Gaur

Applicant

Annexure # 1

15

AM

11.

SRK R 1620

N.P.-G. 49 (Revised)

RB-GC-9

पूर्वोत्तर रेलवे

N. E. RAILWAY

30251

सेवा-प्रमाण-पत्र  
SERVICE CERTIFICATEDRMCP/15N जारी करने वाला कार्यालय  
Issuing Office.क्रम सं. 31-7-87 जारी करने की तिथि  
Serial No. Date of issue

- नाम Sri. Ravay Lal Gaur  
Name
- पिता का नाम Sri. Gaur. P. L. Gaur  
(i) Father's name
- जाति Hindu  
(ii) Caste
- जन्म-तिथि (शब्दों में) 6th July Nineteen Twenty  
Date of birth (in words)
- चहचान के चिह्न (यदि कोई हों)  
Identification marks (if any)
- किस विभाग में नियुक्त है Office  
Department in which employed
- सेवा की अवधि 8-12-56 से 31-7-87 तक  
Period of service—From to
- नौकरी छोड़ने समय किस पद पर काम करते थे Guard A.  
Appointment when leaving service
- नौकरी छोड़ते समय वेतन-दर Rs. 2200/-  
Rate of pay on leaving service
- नौकरी छोड़ने के कारण Superannuation  
Reasons for leaving service

- समय-पालन Satisfactory  
Time keeping

- कर्मचारी के हस्ताक्षर  
प्रथम अंगूठे की छाप  
Employee's signature  
or Thumb print.

कृते मंडल प्रमुख  
Signature  
पूर्वोत्तर रेलवे, लखनऊ  
Designation

True Copy  
attestedX really  
Attest

P. L. Gaur

जहाँ पर दोनों पक्षों का प्रयोग  
Use both side if required.

पुणे/लखनऊ  
N. E. RAILWAY

Regd.

संख्या (No.) ई।१।२२७/अनुकम्पा/तृ.शे. २३७ दिनांक (Date) २९-११-८८  
 प्रेषक (From) मंडल रेल प्रबंधक (का) लखनऊ To श्री कुं. उपरजा गौर  
 विषय (Sub:) अनुकम्पा के आधापन पुणे स्व. पी. एल. गौर  
 संदर्भ (Ref.) नियुक्ति हेतु प्राथमिक रेलवे क्वॉटर नं. ६४/ए  
 रेशबाग, लखनऊ

संदर्भ: म.प्र. (का) गोरखपुर का  
 पत्रांक ई।२३९/३।२। तृ.शे.  
 लखनऊ पांच दि. २२-११-८८

उपरोक्त विषय में सूचित किया जाता  
 है कि उपरोक्त संदर्भित पत्र के अनुसार  
 आपकी अनुकम्पा के आधापन नियुक्ति  
 विचार कर पाना संभव नहीं है।

Recd on 24/11/88

हैतु मंडल रेल प्रबंधक  
 (का) लखनऊ

True copy  
 attested

Truly  
 Yours  
 A. K. S.

P. h. Gaur

B16

क्या यह तार आवश्यक है ? यदि हां, तो इसे छोटा बनाइये ①

फ़ॉर्म 30-एल एच टी. 1  
N.E.-R.F. 1

Class <u>MAAC</u>	Code <u>22/40</u>	II	वि. म.	Date <u>1/11/86</u>
From <u>LGR.</u>	By <u>ASD/ASH at LGR</u>			Checked by <u>(Signature)</u>

ASD/ASH at LGR

Shri P. L. Gaur Guard working  
210 no of date has sustained serious  
injury in his head at JRTA He is  
is coming by 210 as expected at  
23/50 hrs. Please attend

TO FROM	को भेजा गया/SENT BY/AT DATE/HY	को भेजा गया/SENT BY/AT DATE/HY	को भेजा गया/SENT BY/AT DATE/HY	को भेजा गया/SENT BY/AT DATE/HY	को भेजा गया/SENT BY/AT DATE/HY
------------	--------------------------------------	--------------------------------------	--------------------------------------	--------------------------------------	--------------------------------------

Is this telegram necessary? If so, make it short

NORTH EASTERN RAILWAY

यह तार को भेजने के लिए  
Copy forward this telegram

True copy  
attested

Receivd  
At 210

P. L. Gaur

FIR lodged with  
G.R.P. C-100 828/86

(2)

ATN

पू० उ०—जो० 166  
R. E.—G. 166

सेवा में  
To

DMO

23-12-86 कार्यालय..... स्टेशन  
Office  
बजक..... मिनट.....  
Hrs. 19.....

चिकित्सा अधिकारी  
MEDICAL OFFICER

पूर्वोत्तर रेलवे  
North Eastern Railway

निम्नलिखित घाहत व्यक्ति को हाफ्टरी परीक्षा और रिपोर्ट के लिए भेजा जा रहा है।  
को हाफ्टरी परीक्षा और रिपोर्ट प्रेषित है। कृपया इस सम्बन्ध में शीघ्र कार्यवाही करें।

The following case of injury sent for Medical examination and report. Please arrange early compliance.

हस्ताक्षर..... पद.....  
Signature Designation

घुर्घटना की तिथि एवं स्थान तथा समय, यदि ज्ञात हो Date & place of accident and time if known.	घाहत व्यक्ति का नाम Name of person injured.	घात व्यक्ति का पता Address of person injured.	घोट की किस्म एवं कारण Nature and cause of injury.	चक्षुदीप गवाह का नाम Name of eye witness.	सूचना देने वाले व्यक्ति के हस्ताक्षर का निशान प्रथम हस्ताक्षर Thumb impression or signature of person giving Notice.
1/11/86	P.L. Gaur Gaur/ys	4/0 S/ys	Head injury	White sand 210 DM at 1/11/86 at between HEN-10F HOSPITAL	Admitted in Rly HOSPITAL

P.T.O.

True copy  
attested

Attest  
AL

P. L. Gaur

Amrapur A 4

127

काच की गई और उसका परिणाम नीचे दिया जाता है :-  
Case examined report of result appended below :-

समय..... 11.45 AM तिथि..... 11.11.83  
Time Dated

घोटों का विवरण Details of injuries.	क्या यह बताए गए कारण से संभव है. Whether possible by the cause stated.	घोट लगने और जांच के समय के बीच का अनुमानित अंतर Probable period elapsing between the time of injury and the time of examination.	घोट लगने का समय-अनुमानित प्रभाव Probable effects of time injury.
Semi human wound about 5 to 7 cm R side of victim -	cannot be ascertained No cause has been stated	within few hours	Cannot be assessed at present. Patient transported to N.R. immediately by Ambulance.

तिथि..... 11.11.83 हस्ताक्षर..... D.M.O.  
Date Signature Designation

प्रतिलिपि जिला चिकित्सा अधिकारी..... को  
Copy to District Medical Officer

NER-83840436-30,000-17 12 83

True copy  
attested  
Reallyy  
A. K. Gaur

A. K. Gaur

UNFCU Ag-two glasses  
FJce-two K.E. Railway FVNV +2.50  
MEDICAL DEPARTMENT  
CERTIFICATE-PHYSICAL FITNESS OF EMPLOYEE  
(Certificate to be used when an employee is re-examined during service)

Medical/Dispensary ASH No. PR/745786-69

I do hereby certify that I have examined (name) SRI P. L. PAUR 6.2.29

an employee serving as (designation) Guard (class) A7 in the OPC

branch/department, at (place where employed) LSH who presented himself before me for—

☒ Periodical re-examination

☐ Re-examination prior to promotion to class \_\_\_\_\_ as (designation) \_\_\_\_\_

☐ Re-examination for reconsideration of previous adverse report.

and whose signature, thumb impression has been appended below in my presence.

I consider him fit for service in class C2 with glasses

RE +2.0 SH +0.75 ey  
LE -0.5 SH -1.5 ey  
Signature of Rly. Medical Officer [Signature]

Date 13.3.85 / 1974 Designation [Signature]

Mark out where inapplicable

If unfit for service in the class for which examined, state next to which he is fit

Marks of identification Black spot pt-side of nose Signature [Signature]

Cut mark below knee Thumb impression of [Signature]

N Left leg Book S—13 83

True Copy  
Attested

[Signature]  
A. H. K.

P. H. Gaur

22/

Sup:- Appointment of my daughter on Compassionate ground on being medically decategorised due to seriously injured on duty and my refusal for accepting any alternative job.

Sir,

With profound respect I would like to encroach up only your precious time to have a glance on request by which rebirth can be given to a ruined family with legality. The few facts are as under:-

1. I was working at Head quarter LCN in 'A' grade Guard Category while working 210 On Ex CPA-LCN on 1.11.86. I was badly hurt by stone bating by some miscreant at HRN while exchanging alright signal with the driver and got sever injury on my head immediately I became unconscious and fell down on the floor in the SLR.

2. I had heard later on when I resumed normal sense that DMO/ASH, ME/NRW, NE, DDM/NE & NR, ADRM/NE, senior DDS, SCSO, AOS(G) and AOS(c) of NE Rly Lucknow attended me immediately in the morning of fatal night. They all had taken special care and attention to save my life. My condition was so serious due to excess bleeding right from the place of accident to the hospital. I was narrowly escaped from the jaw of death.

3. I was remained hospitalised under the treatment of DMO/NR for 15 days, there after I was directed to DMO/ASH for further treatment, where I had to remain for further treatment upto 2.3.87. Though I was not feeling well and sound to perform my duties, but on the full assurance of DMO/ASH. I accepted to go on duty with the fit certificate issued by him. I was booked first train 57 UP Ex LCN CPA on 8.8.87 and returned back train 58 ON EX CPA- LCN according to schedule link diagram. I felt most anguished and puzzled with my head and brain and found myself completely unable to perform my

P.L. Gaur

Contd....2

सिमा में

ओ. गांव गांधी रेल प्रत्यक्ष (कार्मिक)

पर्वतर रेलवे 5 अंशक मार्ग,  
लावनकविषय :- रेलवे इंस्टर द्वारा ए-2 से अनफिट स्न  
सी-2 में फिट होने के फलस्वरूप किता  
अना पद पर कार्य करने में आनीवृत्ति

महोदय,

प्रार्थी उपरोक्त संस्था में निम्न निवेदन करना चाहता है,

1) प्रार्थी लावनक जं. पर गार्ड 'ए' पद पर कार्य कर रहा था ओ.  
गंगा प्रतीति के कारण दिनांक 11-5-87 को ए-2 से अनफिट  
कार्य रेलवे इंस्टर ऐशवाग द्वारा सी-2 में फिट घोषित  
किया गया है।

2) इस संबंध में अनफिट स्न फिट प्रमाण पत्र रेलवे इंस्टर द्वारा  
लावनक को दे दिए गए। जिसने हाथी संबंधित कागजात  
अपने पत्र संख्या ई। गार्ड। लावनक। 187 दिनांक 12-5-87 को  
मैनेजर (का.) लावनक को उचित कार्यवाही के लिए भेज दिया तथा  
मुझे रिपोर्ट करने का निर्देश दिया।

3) उपरोक्त पालीधारी को एवं निर्देशों के आधार पर प्रार्थी रिपोर्ट  
का रहा है तथा अवगत करा रहा है कि प्रार्थी कितनी भी पद  
पर कार्य करने हेतु सक्षम नहीं है तदनुसार आनीवृत्ति देता है।

अतः प्रार्थी निवेदन करता है कि उक्त पालीधारी को

ज ज्ञान देते हुए प्रार्थी की पुत्री को आपका मोड़ के

अनुकूलता के आधार पर उसे रेलवे में नियुक्ति को। जो व का

2/5/87 को जाय। आगे दिया होय।

दिनांक 15/5/87

प्रार्थी

P. L. Gamm

(प्रा. गा. गांधी)

गार्ड-ए, लावनक जं.

पर्वतर रेलवे

P. L. Gamm

True copy  
attestedTrue copy  
Attested

On being compelled under the circumstances prevailing I was reported sick and requested the authority for special medical examination.

4. I was remained under special medical check up from 9.3.87 to 11.5.87 during this period, I had gone under several type of medical tests and consequently I was declared unfit for category A/2 and fit for category C/2.

5. All the concerning papers regarding my decategorisation were submitted to DRM(P) for further disposal on 12.5.87 duly forwarded by SS/LJN.

6. On 15.5.87 I had submitted my refusal for accepting any alternative job if offered by the administration, knowing the fact that I was going to be retired on 31.7.87. Still then I was informed by the administration to be appeared before the standing committee for the alternative job, which I had already refused on 15.5.87.

7. I would like to mention here a most pathetic event, while I was under treatment on being hurt on duty serving the Rly, my wife became very much perturbed and depressed due to my serious condition. She forgot her all sufferings and pains, resulting her own ailment developed and was detected as cancer in the last stage, who could not service more than 3 days after my retirement and expired on 6.8.87. I would like to mention here again that I lost my life partner only on account of my devotional duty to Railway Administration.

8. I have got two marriageable daughters and no son, studying in B.A.-I. I am finding myself unable to cope up their requirements and marriage finance.

Contd....3

P.L. Gaur

Under the circumstances stated above I request your good self to consider my case and pass orders for appointment of my elder daughter named Kumari Aparna Gaur, whose particulars are attached herewith for your ready reference, please.

Thanking you for the kind action.

Yours faithfully,

*P. L. Gaur*

(P. L. Gaur)

Retire Guard 'A'

Lucknow Junction

C/o SS/NE. Rly.

Lucknow Junction.

Dated: 13-10-87

Encl: Papers concerning  
to Kumari Aparna Gaur  
and other concerning papers  
in Nos. ~~XXXXXX~~ attached  
herewith.

*Handwritten note:*  
I have shown the same to Mr. [Name] personally  
and being satisfied with his recommendation  
of 25/10/87, with his own recommendation  
to the latter *P. L. Gaur*  
13/10/87

*True copy  
attested  
Really  
A. B. Singh*

*P. L. Gaur*

देवा में,

माननीय रेल उप मंत्री  
माननीय रेल, रेल मंत्रालय,  
नई दिल्ली ।

विषय:- पूर्ववर्ती गार्ड श्री ग्यारे लाल भांडू, पूर्वोत्तर रेलवे लब्धक ५० के  
आफिसियल पुर्नटका के कारण श्रेणी ए-२ में चिकित्सीय प्रमाण-  
पत्र पर कार्य में अक्षम होने के फलस्वरूप माननीय आचार्य पर  
विद्युत के संदर्भ में आवेदन पत्र ।

संदर्भ:- मण्डल रेल प्रवक्ता का कार्यालय लब्धक के पत्र संख्या ई/१/२२७/  
अनुमति/ १० ५०/२३ दिनांक २९/११/८६। पंजीकृत के तिरुव  
प्रतिवेदन ।

माननीय महोदय-

आप का ध्यान उपरोक्त के संदर्भ में आकर्षित करते हुये  
विवरलिखित तथ्यों को आप के समक्ष विचारार्थ प्रस्तुत करना चाहती हूँ।  
सादा ही आप से सही विन्दुओं पर विचारोपरांत न्याय की अपेक्षा करती  
हूँ ।

111 मेरे पिता श्री ग्यारे लाल भांडू, पूर्वोत्तर रेलवे में गार्ड के पद  
पर मेडिकल श्रेणी ए-२ में कार्यरत थे । जिसका काबुर से माड़ी लड़ते समय  
दिनांक ११/११/८६ के सत्र के मध्य पदवार से पर में वोट लम्बे के कारण  
पुर्नटका हो गयी । उक्त अवसर अवकाश में रेल विधिकीय विधिकीय  
उत्तरी रेलवे लब्धक में उपचार के लिए अंतरिम रिात्म में भागी किया गया  
उक्त विधिकीय ११/११/८६ से २३/३/८७ तक चलती रही । तत्पश्चात ३/३/८७  
से कार्य करने के लिए विधिकीय के उक्त अनुमति प्रदान की । दिनांक ८/३/८८  
को कार्य पर जाने के पश्चात मेरे पिता के यह महसूस किया कि वे अपने कार्य  
को सही ढंग से नहीं कर पा रहे हैं क्योंकि उन्हें स्पष्ट दिशाई नहीं पड़ती  
था तथा उन्हें बहुत आसराहट तथा शारीरिक व्यथा की अनुभूति हुई।  
जिसकी सूचना उन्होंने विभाग को दिनांक ९/३/८७ को प्रस्तुत कर दिया

121 दिनांक ९/३/८७ के सूचना को स्टेशन अधीनस्थ लब्धक ५०  
पूर्वोत्तर रेलवे के डी०एम०ओ० एश्वर्याम को आवश्यक परीक्षण के लिए तथा  
तथा उपचार हेतु भेज दिया ।

131 डी०एम०ओ० पूर्वोत्तर रेलवे एश्वर्याम के मेरे पिता के विरोध  
विधिकीय परीक्षण में दिनांक ३३/३/८७ से ११/५/८७ तक रहा तत्पश्चात  
उन्होंने ए-२ के निमित्त अक्षम २०-५० । तथा तथा ए-२ के लिए  
क्षम पाया, जिसे अक्षम पर मण्डल रेल प्रवक्ता का कार्यालय । पूर्वोत्तर

१२० दिनांक २८/६/८७ को १/७/८७ को साक्षात्कार हेतु स्टेशन

कमेटी के समक्ष उपस्थित होने का निर्देश दिया। इस दिवस में मेरे पिता के दिनांक 15/5/87 तथा 21/7/87 को एक आदेश पत्र प्रस्तुत करके निवेदन किया था कि वर्तमान में जिस भी कार्य को कोई एक विभाग में उपलब्ध नहीं है इसलिए जो आवश्यक है उपस्थित होने का निर्देश कर दिया है तथा इसके पालन के लिए आवश्यक उपस्थित होने का निर्देश कर दिया है तथा इसके पालन के लिए आवश्यक उपस्थित होने का निर्देश कर दिया है।

141. रेल प्रशासन के आदेश पत्र संख्या 3025/डीआरएमपी/एलएएम 31/7/87 को मेरे पिता को 50 वर्ष की आयु पूरा होने पर सेवा के अवकाश प्रदान कर दिया परन्तु उसके द्वारा प्रस्तुत आदेश पत्र दिनांक 15/5/87 व 21/7/87 पर कोई विचार नहीं दिया गया और जो भी प्रस्ताव आदेश पत्रों को कोई संतोषजनक उत्तर प्रदान के दिया तत्पश्चात् मेरे पिता के एक आदेश पत्र मेरे आदेश पत्र के साथ दिनांक 31/7/87 को महाप्रबन्धक पूर्वोत्तर रेलवे, मीरजापुर के महाप्रबन्धक के समक्ष उपस्थित होकर दिया जिसपर कोई निर्णय नहीं के पक्षस्वरूप दिनांक 13/10/87 को पुनः एक आदेश पत्र मेरे पिता के मेरे आदेश के साथ मौखिक या पुनर्निर्देश महाप्रबन्धक पूर्वोत्तर रेलवे के महाप्रबन्धक के समक्ष हस्तगत किया गया।

अपरोक्ष के प्रश्न में भारतीय नौसेना का क्या निष्कर्ष निकाला जा सकता है तब तक निर्णयित करना बाकी :-

142. दिनांक 19/6/87 मण्डल रेल प्रबंधक कार्मिक महाप्रबन्धक के पत्र संख्या 11/227/डीआर- 3111/1 तथा दिनांक 14/7/87 के पत्र संख्या का/टी/227/डीआर-1111/1 के माध्यम से प्रश्न 28/6/87 तथा 21/7/87 को साक्षात्कार हेतु स्टेपिडम कमेटी के समक्ष उपस्थित होने के लिए भोजन भत्ता दिया यह पत्र मेरे पिता के मूल प्रश्न पत्र के पत्र से भोजन भत्ता भत्ता भत्ता मेरे पिता रेलवे क्वार्टर 68-ए ऐराबाई के पत्र पर रह रहे थे जिससे स्पष्ट स्पष्ट है कि कार्य अभी स्व में सम्पादित नहीं हो रहा था।

143. मेरे तथा मेरे पिता के अंतर-निर्णय आदेश पत्रों पर जो प्रस्ताव मुझे पत्र संख्या ई/1/227/प्रबन्धक/ 10040/287 दिनांक 20/11/88 व 24/11/89 को प्राप्त हुआ है, मैं यह स्पष्ट नहीं किया गया है कि जिस आदेशों पर विद्युत के सेवा में दिवार कर पाया सम्भाव नहीं है।

144. यह स्पष्ट है कि मेरे पिता का सरकारी कार्य पर 1/11/88 को घर में पतार लगे के कारण अटक हुई थी और तब से मेरे पिता बराबर

ऐतये विहितक के पास उपचार में बने रहे । जिसका उल्लेख गारीर और मल पर दुष्प्रभाव पड़ने के कारण पूरा परिवार टूट सा गया और इसकी बातना मेरी माँ को मिली और उसका स्वभाव विना के सेवा विवृत होकर ते तीव्र विष बाव हो गया ।

### निवेदन:-

उपरोक्त सभी परिस्थितियों एवं तथ्यों को आप के समक्ष किसी द्रव्य-वशात रखा कर अपनी स्थिति को स्पष्ट करना चाहती हूँ और यह भी सूचित करना उचित ही है कि मेरे अलावा मेरे पिता की देहाभात अन्य कोई व्यक्ति नहीं करके वाला है, जो दुर्घटना की तिथि से आज तक अवस्था बना रहे है और उसका उपचार यथावत चल रहा है। वर्तमान में मेहनाई के समय में स्थिति स्पष्ट करना उतना ही अनुचित होगा जिसका पूर्व को दीयेक दिखाना है ।

अतः आप से साजुरोष्ट निवेदन करना चाहूँगी कि मेरी सभी बिबुधों पर समयक विचार करके के उपरांत मानवीय आधार पर पिता के दुर्घटना के कारण मुझे रेल प्रशासन के अंतर्गत जो मेरे लिए उचित सेवा का विद्यालय हो, पर विद्युत के आदेशा बिबृत करके के महति कृपा करें । वर्तमान में मैं बी०ए०वर्ग विद्वतीय में विश्वविद्यालय लुआक में पढ़ रही हूँ । इस संस्था में आपके पूर्व प्रेषित आवेदन पत्रों, प्रमाण पत्रों, संतानिकाओं तथा मेरे पिता द्वारा प्रेषित आवेदन पत्रों के साथ दीयेक समस्त अंगरेजों की फोटोस्टेट कापी संलग्न कर रही हूँ ।

मुझे आशा ही नहीं दिववास है कि मेरे प्रार्थना पर आप कृपयता पूर्वक विचार करते हुए आवश्यक आदेशा बिबृत कर मेरे परिवार को भाविष्य में आने वाली कठिनाईयों से उधारके की कृपा करेंगे ।

सम्मान,

दिनांक 11-2-89

संलग्नक :- उपरोक्त ।

प्राथमिकी

अपनी ओर

100अर्पणा गौड़

पुत्री श्री प्यारे लाल गौड़

782वीरु पल्ली

फावाय रोड, लुआक ।

प्रतिलिपि:- महाप्रबन्धक, पूर्वोत्तर रेलवे मुख्यालय औरंगापुर को उपरोक्त सभी संलग्नक के साथ आवश्यक आदेशा एवं कार्यवाही हेतु प्रेषित ।

100अर्पणा गौड़  
पुत्री श्री प्यारे लाल गौड़,  
782वीरु पल्ली  
फावाय रोड - लुआक ।

R.L. Gaur

True copy  
attested

Tracy  
H. local

## महोदध

श्री

क

# वकालतनामा

## बनाम

सन्

**पेशी की ता०**

410 2

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

**वकील**

.....महोदय

**एडवोकेट**

नाम अदालत  
मुकद्दमा न०  
नाम फरोकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूव करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

P. L. Gaur

1 P. L. Gaur

3. Aparna Gaur

### हस्ताक्षर...

साक्षी (गवाह) ... .. साक्षी (गवाह) ... ..

दिनांक ..... १७ ..... महीना ..... सन् १९८० ई०

## हवीकृत

129

NS/CCS  
64

# VAKALATNAMA

Before Central Administrative Tribunal Bench Lucknow  
In the Court of

OA No. 253 of 1990 (L)

Pyarey Lal Gaur

Versus

Union of India and others

I/We K. P. Singh Divl. Rly. Manager

North Eastern Railway Lucknow

do hereby appoint and authorise Shri B.K. Shukla

Railway Advocate Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Application/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri.....

..... Railway Advocate, Lucknow.....

.....in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

.....day of.....198..

.....

.....

.....

(K. P. Singh.)

.....

Accepted  
B.K. Shukla  
Advocate

130

NS/CCS  
64

## वकालतनामा

..... Central Administrative Tribunal Bench Lucknow ..... के समक्ष  
..... O A No. 253/90 (L) ..... के न्यायालय में

वादी  
प्रतिवादी

Pyarey Lal Gaur

दावेदार  
अपीलाधी

प्रतिवादी  
वादी

Union of India Officers  
BK Sharma

अर्जीदार  
प्रत्यार्थी

भारत के राष्ट्रपति इसके द्वारा श्री

Railway Advocate Lucknow

को उपर्युक्त वाद/अपील/कार्यवाही में भारत संघ की ओर से उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने के लिए दस्तावेज दाखिल करने और वापस लेने, न्यायालय की आदेशिका स्वीकार करने, काउन्सेल, अधिवक्ता या प्लीडर नियुक्त करने और उन्हें अनुदेश देने, रुपया वापस लेने और उसका निक्षेप करने तथा उपर्युक्त वाद/अपील/कार्यवाही में भारत सरकार का साधारण प्रतिनिधित्व करने और भारत संघ के लिए इस प्रकार उपसंज्ञात होने, कार्य करने, आवेदन करने, अभिवचन करने और आगे कार्यवाही करने की अनुषंगिक सभी बातें करने के लिए नियुक्त और प्राधिकृत करते हैं। किन्तु यह इस शर्त के अधीन रहते हुए होगा कि जब तक भारत सरकार के समुचित प्राधिकारी से उस निमित्त पहले ही स्पष्ट प्राधिकार प्राप्त नहीं कर लिया गया है, तब तक उक्त काउन्सेल/अधिवक्ता/प्लीडर या उसके द्वारा नियुक्त काउन्सेल/अधिवक्ता/प्लीडर सभी या किसी प्रतिवादी/प्रत्यार्थी/अपीलाधी/वादी विरोधी पक्षकार के विरुद्ध उस वाद/अपील/दावा/प्रतिरक्षा/कार्यवाही को पूर्णतः या भागतः न तो वापस लेगा, न उसका अधिग्रहण करेगा, न ऐसा कोई करार करेगा या समझौता करेगा जिसके द्वारा वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाए और न उससे उद्भूत या उसमें विवादग्रस्त सभी या किसी विषय को मध्यस्थ को निर्देशित करेगा, परन्तु आपवादिक परिस्थितियों में जब भारत सरकार के समुचित प्राधिकारी से परामर्श करने के लिए पर्याप्त समय नहीं है और वाद में समझौता करने में लोप करना निश्चित रूप से भारत सरकार के हित के प्रतिकूल होगा तो उक्त प्लीडर/अधिवक्ता/काउन्सेल ऐसा कोई करार या समझौता कर सकेगा जिसके द्वारा उक्त वाद/अपील/कार्यवाही पूर्णतः या भागतः समायोजित हो जाए और ऐसे प्रत्येक मामले में काउन्सेल/अधिवक्ता/प्लीडर करार या समझौता करने के विशेष कारण बताते हुए उक्त अधिकारी को तत्काल संसूचित करेगा।

राष्ट्रपति इस प्राधिकार के अनुक्रम में श्री

Rly. Advocate Lucknow

द्वारा किए गए सभी कार्यों का अनुसमर्थन करने को सहमत हैं।

इसके साक्ष्यस्वरूप भारत के राष्ट्रपति के लिए और उनकी ओर से इस विलेख को आज तारीख ..... को सम्यक् रूप से निष्पादित किया जाता है।

तारीख ..... 19

NER-84850400-8000-4784

Accepted  
H. S. Gaur  
Lucknow

S. K. Budhlakoti  
(S. K. Budhlakoti)  
निष्पादन करने वाले अधिकारी का पदनाम  
मे

In the Central Administrative Tribunal, Lucknow.

10/1

Application No. \_\_\_\_\_ of 1990.

P. L. Gaur & others. ... Applicant

Versus

Union of India & others. ... Respondent

Letter of Authorisation of Agent.

We the undersigned the applicants abovesaid do hereby authorise Sri Bansraj Yadava R/o C-322, Indira Nagar, Lucknow as an Agent in this case. His consent is given below:-

1. P. L. Gaur

Lucknow:

2. Aparna Gaur

Dated: 8 - 8 - 1990

Applicant

I Bansraj Yadava R/o C-322, Indira Nagar, Lucknow accept to act as an agent in the above case.

Lucknow:

Date: 8-8-1990

*Bansraj Yadava*  
( Bansraj Yadava )

Agent

A31

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
Circuit Bench Lucknow

O.A. No. 253 of 1990

PYARE LAL GAUR <sup>2</sup> ANOTHER ..... APPLICANTS

VS.

UNION OF INDIA & OTHERS ..... RESPONDENTS

COUNTER REPLY ON BEHALF OF THE OPPOSITE PARTIES.

I, S M N Islam aged about 35 years son  
of Sri S M Owais working as Sub Divl Personnel Officer  
in the North Eastern Railway Lucknow, do hereby solemnly  
affirm and state as under:-

- F-7  
J 20/11
1. That I have been duly authorised by the opposite parties to file the instant reply. I have gone through the application and have understood the contents thereof well; and as such I am conversant with the facts and circumstances of the case deposed to herein after.
  2. That the contents of para-1 and 2 of the application need no comments.
  3. That the contents of para-3 of the application need no comments.
  4. That contents of para-4 of the application are being replied as under:-
    - (i) That the contents of para-4(i) of the application need no comments.
    - (ii) That the contents of para-4(ii) of the application need no comments.
    - (iii) That the contents of para-4(iii) of the application need no comments.

S M N Islam  
yok

4(iv) That the contents of para-4(iv) of the application need no comments, except to state that the applicant no.1 ~~joined~~<sup>joined</sup> duty after his accident and worked on train no. 57up and 58dn. on 8.3.37 Ex. Lucknow to Kanpur (Anwarganj).

4(v) That in reply to para-4(v) of the application it is stated that the applicant no.1 was ~~heard~~<sup>hurt</sup> on duty on 1.11.86 and remained under medical treatment upto 2.3.87 and was declared fit for duty on 3.3.87 by Divisional Medical Officer <sup>Aishbagh</sup> Lucknow.

4(vi) That in reply to para-4(vi) of the application it is stated that after being declared fit by Divisional Medical Officer Aishbagh, the applicant no.1 performed duty on 8.3.87 Ex. Lucknow Junction to Kanpur Anwarganj on train no. 57up and 58dn. After returning back to headquarter he showed his inability to perform duty as such he was sent for a special medical examination by station superintendent Lucknow junction. A copy of the letter dated 12.5.87 written by ~~the~~ Station Superintendent Lucknow Junction to Divisional Railway Manager(P) Lucknow is being annexed herewith as annexure no.R-1, in which it has been mentioned by Station Superintendent that the applicant no.1 was declared fit in medical category C-2.

4(vii) That in reply to para-4(vii) of the application it is stated that a railway servant who fails in vision test or otherwise becomes physically incapable of performing the duties of the post which he occupies but <sup>not</sup> incapable of performing other duties shall be granted leave in accordance with ordinary rules subject to the condition that where the railway servant has not got six months leave to his credit, his leave shall be made

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upto six months by the grant of extra ordinary leave without pay. It is further pointed out that the applicant no.1 was a running staff who was declared fit in medical category D-2. The applicant no.1 was not declared fit for medical category A-2 but was found fit in the medical category C-2 by the Medical Officer Aishbagh on 11.5.87. The said certificate dated 11.5.87 was submitted in the respondents office on 13.5.87 and thereafter the case was processed for suitable alternative job for the applicant no.1. The matter was referred to Standing Committee vide Note No. E/PC/P.L.Gaur/Guard/87 dated 20.5.87. The true copy of the said ~~ex~~ letter dated 20.5.87 is being enclosed herewith as annexure no. R-2 to this reply.

In this reference, it is pointed out that the applicant no.1 vide his application dated 15.5.87 (annex. no.7 to the application) informed to Divisional Railway Manager(P) (respondent no.2) that he was incapable of performing duty for any post and as such he submitted his refusal for alternative job. In the said application dated 15.5.87, applicant requested for the appointment of his daughter Km. Aparna Gaur ( applicant no.2) on compassionate grounds. The sequence of events could indicate that the applicant no. 1 was least interested for the alternative suitable job but he tried to obtain the appointment for his daughter on the basis of his personal grounds.

Under rule, in case of medically unfitted staff are provided the job of equivalent grade and in case such staff refuses to accept such offer, the staff is discharged from service with full benefits. In the instant case, the leave was granted to the applicant no.1

SW? when  
Gor

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to find out the suitable job for him and when he refused the offer given to him for alternative suitable job then he was retired from service w.e.f. 31.7.87 on superannuation.

4(viii) That the contents of para-4(viii) of the application are wrong, hence denied. It is stated that the applicant no.1 never applied for voluntary retirement. The applicant's application contain<sup>ed</sup> in annexure no.7 to the application simply showed his inability to work and refusal to alternative job. Thereafter the applicant demanded a job for his daughter ~~Mr.~~ Aparna Gaur on ~~com~~ compassionate grounds. The applicant was not forced to retire, rather his date of superannuation was 31.7.87 i.e. at the age of 58 years and as per rules every railway employee is required to retire from service at the age of 58 years. Hence the question does not arise ~~after~~ his retirement from the date of 15.5.87. As he never applied for voluntary retirement, But the applicant was paid salary for the period from 15.5.87 to 31.7.87 as such his claim for appointment of his daughter on compassionate grounds is fictitious.

4(ix) That the contents of para-4(ix) of the application are wrong, hence denied. It is stated that the compensation is paid to ~~incapacitated~~ <sup>incapacitated</sup> staff on the basis of loss of his earning capacity. There was no loss of earning to applicant no.1 as he was being given alternative job. As such the applicant no.1 is not entitled for any compensation.

4(x) That in reply to para-4(x) of the application it is stated that no doubt there is provision for appointment <sup>of</sup> sons/daughter ~~on~~ compassionate grounds where an employee is medically decategorised for all medical

Shri 2/1/88  
JGR

categories and given invalid pension. This provision does not apply in the case of applicant no.1. It is further pointed out that the daughter of applicant no.1 Km. Aparna, the applicant no.2 has filed a separate claim petition no. 309/90 Aparna Gaur vs. Union of India and others for appointment on compassionate grounds which is pending <sup>before</sup> this Hon'ble Tribunal.

4(xi) That the contents of para-4(xi) of the application need no comments, As those are not relevant for the instant case.

4(xii) That the contents of para-4(xii) of the application are partially wrong, hence denied. In reply thereto it is stated that no discrimination has been done with the applicants. The rest of the contents of para-4(xii) reply have already been replied above in this instant reply.

4(xiii) That the contents of para-4(xiii) of the application need no comments, except to state that there was no use for moving another application for appointment <sup>on compassionate</sup> of compensation grounds as it is not possible as per rules.

4(xiv) That the contents of para-4(xiv) of the application need no comments, In view of the preceding paras of this instant reply.

5. That in reply to para-5 of the application it is stated that the grounds taken therein are false, frivolous and fabricated as such those are <sup>not</sup> sustainable in the eyes of law. The application of the applicants deserves to be dismissed with cost through out. In view of the facts and circumstance stated in the preceding paras of this counter reply.

Smr  
GDR

6. That the contents of para-6 of the application need no comments.

7. That the contents of para-7 of the application need no comments, except to state that the applicant no.2 has filed a separate application before this Hon'ble Tribunal as stated above.

8. That in reply to para-8 of the application it is stated that in view of facts and circumstances, stated in the preceding paras of this reply, the applicants are not entitled for any relief as prayed and their application deserves to be dismissed with cost throughout.

9. That the contents of para-9 of the application need no comments.

10. That the contents of para-10 of the application need no comments.

11. That the contents of para-11 of the application need no comments.

12. That the contents of para-12 of the application need no comments.

Dated:- 23.7.91

16 Smt. N. Islam,  
YGR

VERIFICATION

I, S M. N. Islam the above named do hereby verify that the contents of paras 1 of this Counter Reply are true to my personal knowledge and those of paras 2 to 12 of this counter reply are true on the basis of the knowledge derived from the perusal of records relating to the instant case kept in the official custody of the answering respondents except legal averments which are believed

Smt. N. Islam  
YGR

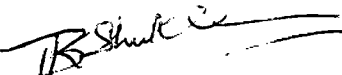
--7--

by me to be true on the basis of legal advice. No part of this counter reply is false and nothing material has been concealed.

Dated:- 23 / 9 / 1

Swizula,

THROUGH



( B.K. SHUKLA )

Advocate

Counsel for the Respondents.

--6--

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,  
LUCKNOW.

OA No. 253/90(L)

138

Pyarey Lal Gaur

V/s

Union of India.

ANNEXURE No. R-1

N.E. RAILWAY.

No. E/Guard/LJN/87

Dated 12.5.87

From: Station Supt.  
Lucknow.

To: DRM/P/LJN.

Sub: Shri P.L. Gaur Guard/LJN

The above named employee remained under HON w.e.f. 1.11.86 to 3.3.87. After being declared fit by DMO/ASH he has performed 1st duty on 8.3.87 ex-LJN-CPA by 57Up/58Dn. After returning back to dqr. he has shown his inability to perform duty as he was feeling anguish resulting he was sent to Spl. P.M.E.

The above named employee remained under Spl. PME under DMO/ASH from 13.3.87 to 11.5.87 and declared fit only in C/two category with glasses as per DMO/ASH's certificate No.PF/765/86-87 dt. 13.3.87/11.5.87.

Since above named employee is not fit in A/2 category he is being directed to report you for further orders along with original PME Certificate of DMO/ASH.

S/-

Station Supt./LJN

Sw. 11/5/87  
11/5/87  
11/5/87

1437

Before the Central Administrative Tribunal  
Circuit Bench Lucknow

OA No. 253/90(L)

Pyarey Lal Gaur

V/s

Union of India

Annexure/No. R-2

नोट

सं० ई/पी० सी०/पी०एस० गौड़/गई/ 87  
दिनांक 20-5-87

श्री पी० एस० गौड़, गई लखनऊ जिन्हें सं० वि० आ०/रेखाग के प्रमाण पत्र  
सं० पी० आ०/765/85-87 दि० 11-5-87 द्वारा ए/2 की मेडिकल कटेगरी में  
अयोग्य तथा सी/2 में चरम के साथ मेडिकल कटेगरी में योग्य घोषित किया गया है  
इनका सेवा विवरण निम्न है ।

नाम - श्री पी० एस० गौड़

पिता का नाम - श्री गुरप्रसन्न गौड़

जन्म तिथि - 6-7-29 दिनांक 31-7-87 को से० नि० हॉस्पिटल

नियुक्ति तिथि - 8-12-50

पद व वेतनमान - गई 'ए' (1350-2200)

रेशन - लखनऊ ज०

वेतन - 2200/-

शैक्षणिक योग्यता - स्नातकोत्तर

पता - लुपतिपुर, हाथार, विरैया कीट, जिला - आजमगढ़

कृपया इनके अस्टानेटिव जमाने देने की व्यवस्था करें । इनकी बुट्टी के  
आते में अब कोई अवकाश देय नहीं है ।

ह०/-

कापीधि/परि०

प्रर

Swarna

2nd Copy for General

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI.

1440

O.L. No. 253 of 1992 (L)

Piyare Lal Gour .... Applicant.

v/s

Union of India & others .... Respondents.

Fixed For: 20-5-1992.

Applicant's Rejoinder to Counter Reply on behalf of  
Respondents.

1. That the contents of para 1 of counter reply (in short C.R.) need no comment except that letter of authorisation from respondent no.1 and 3 has not been filed. Further the C.R. has been filed beyond the period of limitation without prayer for condonation of delay in filing C.R.. Hence the C.R. may not be admitted on the record of the proceedings of the Tribunal.
2. That the contents of para 2 of C.R. need no comments.
3. That the contents of para 3 of C.R. need no comments.
4. That the contents of para 4 of C.R. are commented as under:-
  4. (i). That the contents of para 4 (i) of C.R. need no comments.
  4. (ii). That the contents of para 4 (ii) of C.R. need no comments.
  4. (iii). That the contents of para 4 (iii) of C.R. need no comments.
  4. (iv). That the contents of para 4 (iv) of C.R. need no comments.
  4. (v). That the reply in para 4 (v) of C.R. is not specific and the contents of para 4 (v) of O.L. are re-iterated.

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P.L. Gaur

Filed today  
copy  
29/4/92

4.(vi). That the contents of para 4(vi) of C.R. are not admitted as stated and the contents of para 4(vi) of O.A. are re-iterated. It is further stated that the applicant was already unfit in medical category 1-2 for Guard and he was fit only in medical category C-2 even on 3-3-1987. The Divisional Medical Officer issued the fit certificate on 3-3-1987 in bad faith to deprive the applicant from accident claim compensation for partial disablement in vision of his eyes on account of head injury in accident on duty on 1-11-86. The applicant felt practical difficulties for his personal safety of travelling passengers while working on 8-3-1987 Ex Lucknow Jn. - Kanpur Intergang on train no. 57 up and 58 Dn. The Station Supdt. Lucknow Junction realised the aforesaid safety aspects, therefore he sent the applicant for special medical examination on 13-3-1987. In result the applicant was medically decategorised from medical category A-2 to medical category C-2 of Guard on 11-5-1987 but the applicant was not absorbed in medical category C-2 nor there was any post available in C-2 for his absorption nor the applicant was paid salary or leave salary from 29-5-1987 to 31-7-1987. On this account the applicant was entitled for compulsory retirement on 11-5-1987 under the extant rules of incapacitation.

4.(vii). That the contents of para 4(vii) of C.R. are not admitted as stated and the contents of para 4.(vii) of O.A. are re-iterated. It is further submitted that the rules of medical decategorisation of employees have been mis-interpreted. The applicant was entitled for his retirement on 11-5-1987 when he was declared unfit in medical category 1-2 for Guard. As a matter of privilege

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P.L. Gaur

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the applicant was entitled for his absorption in medical category C-2 on equal emoluments for Guard but he was not absorbed in aforesaid medical category C-2 nor any post was available for his absorption in medical category C-2 also the applicant was not paid salary or leave salary during the period from 29-5-1987 to 31-7-1987 and no action was taken on his application dated 15-5-1987 contained in ANNEXURE 1-7 to O.A. in bad faith on behalf of the respondents and as such the applicant is entitled for his retirement from 15-5-1987 and for appointment of his daughter on compassionate ground.

4. (viii). That the contents of para 4 (viii) of C.R. are not admitted as stated and contents of para 4 (viii) of O.A. are re-iterated. It is further submitted that the retirement of the applicant on 31-7-1987 was not in any way beneficial to the applicant but his retirement on 15-5-1987 was beneficial to him. Hence the applicant opted for his retirement on 15-5-1987 and his retirement on 31-7-1987 is unjust, illegal void and inoperative and he is deemed to have been retired on 15-5-1987 with arrears ~~monthly~~ of monthly pension from 15-5-1987 to 31-7-1987.

4. (ix). That the contents of para 4 (ix) of C.R. are denied and re-iterated of para 4 (ix) of O.A. It is further made clear that on account of accident on 1-11-1986 the applicant suffered permanent partial disablement in his eyesight and he was deprived of his earnings from 15-5-1987 to 31-7-1987 at the rate of Rs 4500/- per month approximately total amount to Rs. 21000/- and permanent loss of pleasure of eye sight in post retirement life and as such the applicant was entitled for claim of accident compensation.

P. L. Gann

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1.(x). That the contents of para 1(x) of C.1. are not admitted as stated and the contents of para 1(x) of C.1. are re-iterated. It is further submitted that Mr. Ippara Gaur the daughter of applicant no. 1 has filed a separate C.1. No. 399 of 1970 (T) on the order of this Honorable Tribunal and she is entitled for her appointment on compassionate ground as per extant rules on record of proceedings of C.1. No. 399 of 1970 (L) contained in ANNEXURE-2 of C.1. and 4-8 of C.1.

1.(xi). That the contents of para 1(xi) of C.2. need no comments.

2.(xii). That the contents of para 2(xii) of C.3. are denied and contents of para 2(xii) of C.1. are re-iterated.

3.(xiii). That the contents of para 3(xiii) of C.4. are not admitted as stated and contents of para 3(xiii) of C.1. are re-iterated.

4.(xiv). That the contents of para 4(xiv) of C.5. are denied and contents of para 4(xiv) of C.1. are re-iterated.

5. That the contents of para 5 of C.6. are denied and the contents of para 5 of C.1. are re-iterated.

6. That the contents of para 6 of C.7. need no comments.

7. That the contents of para 7 of C.8. need no comments except that the applicant no. 2 has filed a separate application No. 400 of 1970 (L) under the order of this Honorable Tribunal.

8. That the contents of para 8 of C.9. are denied and the contents of para 8 of C.1. are re-iterated.

P. L. Gaur

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9. That the contents of para 2 of C.I. need no comments.

10. That the contents of para 10 of C.I. need no comments.

11. That the contents of para 11 of C.I. need no comments.

12. That the contents of para 12 of C.I. need no comments.

13. That the applicant being out of Lucknow, in filing of Rejoinder in time is delayed which may kindly be condoned.  
Lucknow: P.L. Gaur  
Applicant.

Dated: 16.4.1952

Zeal C. Gaur  
Advocate  
c/o Mr. J. P. Gaur

# VERIFICATION

I, Purna Lal Gaur aged about 60 years s/o Late Gur Prasad Gaur r/o House No. 73 Ravindra Patti, Faizabad Road do hereby verify that the contents of paras 1 to 13 of this rejoinder are true to my personal knowledge and believed to be true. No part of this rejoinder is false and nothing material fact has been concealed.

Lucknow:

P.L. Gaur  
Applicant.

Dated: 16-4-1952